

EXHIBIT 15

Deposition of Captain Vickie R. Norton, BSME, MSc, ATP

Contains Sensitive Security Information (SSI) per Protective Order (ECF No. 126)

PETER DELVECCHIA, et al.,)
) No. 2:19-cv-01322-
 Plaintiffs,) KJD-DJA
)
 vs.)
)
 FRONTIER AIRLINES, INC., et)
 al.,)
)
 Defendants.)
)

REMOTE VIDEO-RECORDED DEPOSITION OF
CAPTAIN VICKIE NORTON
VOLUME

Wednesday, March 8, 2023

STENOGRAPHICALLY REPORTED BY: JAIMIE PORTER, CSR
13751

JOB NO.: 941574

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Also Present (via Zoom videoconference):

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|---|----------------------|-------|
| 1 | INDEX | |
| 2 | | Pages |
| 3 | Examination | |
| 4 | By Mr. Maye | 6 |
| 5 | | |
| 6 | Signature Page | 129 |

| | | |
|----|---|---|
| 7 | | |
| 8 | | |
| 9 | EXHIBITS | |
| 10 | | |
| 11 | Exhibit 1 Expert Witness Rule 26 Report | 9 |

12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 BE IT REMEMBERED that under the applicable
2 sections of the Code of Civil Procedure of the State
3 of California and Federal Rules of Court, on
4 Wednesday, the 8th day of March, 2023, commencing at
5 the hour of 8:02 AM, before me, JAIMIE PORTER, a
6 Certified Shorthand Reporter in and for the State of
7 California, appeared via Zoom videoconference,

8 CAPTAIN VICKIE NORTON,
9 called as a witness by the Defendants in the
10 above-entitled action, whom, per Code of Civil
11 Procedure Section 2025.320 and Federal Rules of
12 Court Rule 30, I placed under oath as the Certified
13 Shorthand Reporter by virtue of Code of Civil
14 Procedure Section 2093(b), to tell the truth, the
15 whole truth, and nothing but the truth, and who was
16 examined and testified as follows:

17 THE VIDEOGRAPHER: Good morning. We're
18 going on the record at 10:02 AM on Wednesday,
19 March 8, 2023. This begins Media No. 1 in the
20 deposition of Captain Vickie Norton in the matter of
21 Peter DelVecchia versus Frontier Airlines, et al.,
22 filed in the United States District Court, District
23 of Nevada. This is case number
24 2:19-cv-01322-KJD-NJK.

25 This deposition is being taken remotely

1 using virtual technology at the request of Adler
2 Murphy & McQuillen. Please note that the quality of
3 recording depends on the quality of camera and
4 Internet connection of participants. What is seen
5 from the witness and heard on screen is what will be
6 recorded. Audio and video recording will continue
7 to take place unless all parties agree to go off the
8 record.

9 The court reporter is Jaimie Porter of
10 Magna Legal Services. I'm the videographer, Delron
11 Simpson of Magna Legal Services. I'm not related to
12 any party in this action nor am I financially
13 interested in the outcome.

14 Will counsel and all parties present state
15 their appearance and whom they represent beginning
16 with the noticing attorney.

17 MR. MAYE: Brian Maye for defendants.

18 MR. McKAY: John McKay for the DelVecchias,
19 the plaintiffs.

20 Just a correction, Mr. Videographer, the
21 last three characters of the case number are now DJA
22 rather than NJK. There was a change in judge
23 assignments.

24 THE VIDEOGRAPHER: Thank you, Counsel.

25 Will the court reporter please swear in the

1 witness.

2 (Whereupon the witness was placed under
3 oath.)

4 THE VIDEOGRAPHER: We may proceed.

5 EXAMINATION

6 BY MR. MAYE:

7 Q. Good morning, Captain Norton. How are you?

8 A. Good morning, Mr. Maye. I'm well. How are
9 you?

10 Q. I'm fine.

11 Can you please state your full name for the
12 record?

13 A. Vickie Renee Norton.

14 Q. And can you give us a brief overview of
15 your educational background?

16 A. Sure. I have a bachelor's of science in
17 mechanical engineering from Michigan Technological
18 University and a master's of science in aviation and
19 aviation safety from the Florida Institute of
20 Technology.

21 Q. And what's your current profession?

22 A. I'm a full-time captain for United
23 Airlines, and I am also employed by MEA Forensic as
24 an aviation accident and incident expert witness.

25 Q. And when did you start your career with

1 United Airlines?

2 A. June 26th of 1995.

3 Q. Okay. And do you maintain a file related
4 to this case?

5 A. I do.

6 Q. What's contained in that file?

7 A. I believe you have my -- my report,
8 everything listed in, I believe, Appendix B is what
9 my file is comprised of.

10 Q. Is there anything that's contained in your
11 report that's not listed -- I'm sorry. Is there
12 anything contained in your file that's not listed in
13 your report?

14 A. There are one or two things that I have
15 received in the last couple of days. I'm happy to
16 pull those together on a break and let you know what
17 they are.

18 Q. Okay. Do you have any email correspondence
19 related to this case?

20 A. No.

21 Q. Do you have any handwritten notes regarding
22 this case?

23 A. Just with regard to my preparation for
24 deposition.

25 Q. And are those notes a part of your case

1 file?

2 A. No.

3 Q. Can you make sure you preserve those
4 notes --

5 A. Certainly.

6 Q. -- for us?

7 A. Sure.

8 Q. And who retained you in this case?

9 A. Mr. McKay.

10 Q. How many hours have you worked on this
11 case?

12 A. Again, I can have my -- my project
13 coordinator pull that together on a break if you'd
14 like. I -- I don't know. It's been going on for I
15 think at least four years, so ...

16 Q. Okay. What is your area of expertise in
17 this case?

18 A. Well, I'm a -- as I mentioned, I'm a
19 full-time Part 121 airline transport pilot captain,
20 so I -- my area of expertise is with regard to
21 overall command of a commercial aircraft and
22 everything that transpires when I'm piloting command
23 interactions with flight attendants and everyone
24 else I have to deal with as -- as PIC.

25 Q. And what were you retained to do in this

1 case?

2 A. Well, consistent with what I wrote in my
3 report, I was asked to review the -- the materials
4 and opine as to the standard of care exercise by the
5 Frontier Airlines' crew and ascertain whether their
6 actions were in accordance with industry standard --
7 with their own, really, procedures and protocol in
8 this -- in this case.

9 Q. So you were -- you were asked to give
10 opinions on whether Frontier complied with their own
11 policies in this case?

12 A. Yes, specifically with regard to the
13 decisions made by both the flight attendants and the
14 flight deck, specifically the captain during this
15 incident.

16 Q. Showing the witness what has been marked as
17 Exhibit 1.

18 (Exhibit 1, Expert Witness Rule 26 Report,
was marked for identification.)

19 BY MR. MAYE:

20 Q. Is this the report you prepared related to
21 this case, Captain Norton?

22 A. It -- it appears to be, sir, yes.

23 Q. And did you create this yourself?

24 A. I sure did.

25 Q. Did anyone assist you in preparing the

1 report?

2 A. I'm sorry. You broke up a little, sir.

3 Q. Did anyone assist you in preparing this
4 report?

5 A. No, sir.

6 Q. Were any content in the report prepared by
7 anyone other than you?

8 A. Well, there's content that I referenced
9 that comes from Frontier's own policies and
10 procedures that -- but -- but no one else prepared
11 my report per se. I -- I incorporated those
12 policies and procedures into the report for
13 reference and clarity, but nothing else was prepared
14 by anyone else. I don't know if that answers your
15 question.

16 Q. Yeah, that's fine.

17 On page 13, there's a section titled
18 "Conclusions and Opinions."

19 Do you see that?

20 A. Yes, sir.

21 Q. No. 10, there's a statement, "the Frontier
22 gate agent failed to ascertain AD's age before
23 allowing him to occupy an exit row seat."

24 You've never been employed as a gate agent;
25 correct?

1 A. That's correct.

2 Q. Never went through -- gone through training
3 for a gate agent position?

4 A. That's correct.

5 Q. You do not have any -- any expertise
6 regarding the gate agent position; correct?

7 A. I don't agree with that.

8 Q. Why don't you agree with that?

9 A. I've been a commercial airline pilot for
10 approaching 30 years, and I, on a daily basis
11 multiple times a day when I'm at work, interact with
12 gate agents and understand their roles and
13 responsibilities, although I've not formally been
14 trained as a gate agent.

15 Q. So are you representing today that -- that
16 you're qualified to serve as an expert on gate agent
17 duties and responsibilities?

18 A. Well, sir, as I just said, what I'm -- what
19 I'm qualified to do is speak to the relationship
20 that I have as pilot in command with my gate agents
21 and understand their basic roles and
22 responsibilities with respect to boarding my
23 aircraft.

24 Q. So that a no or a yes?

25 MR. McKAY: Objection to the form of the

1 question.

2 THE WITNESS: I am -- I -- I don't know. I
3 don't believe there are gate agent experts,
4 quote/unquote, to my knowledge. I don't believe
5 there's anyone more qualified than a 30-year pilot
6 in command to speak to what the inherent roles and
7 responsibilities of gate agents are while we board
8 an aircraft that I'm about to sign for and take
9 command of.

10 BY MR. MAYE:

11 Q. So you think you'd be more qualified to
12 testify about gate agent issues than a 30-year
13 veteran gate agent?

14 MR. McKAY: Objection to the form of the
15 question. Argumentative.

16 THE WITNESS: I -- I don't believe I -- I
17 testified to that. I -- I do know what the gate
18 agent's basic roles and responsibilities are. I
19 don't have a better answer than that for you, sir.

20 BY MR. MAYE:

21 Q. Well, all I -- I just -- you just said that
22 you -- you don't know of anyone who is more
23 qualified than you to discuss the -- the basic
24 duties of -- and responsibilities of gate agent.

25 And so I'm asking you, do you think a

1 person that has served as a gate agent for 30 years
2 with United Airlines is more qualified than you to
3 testify about the duties and responsibilities of a
4 gate agent?

5 MR. McKAY: Objection. Argumentative. And
6 Frontier hasn't presented such an expert, so I don't
7 know why you're inquiring.

8 THE WITNESS: Sir, it's just a -- I'll --
9 I'll -- if I sat in a room with a 30-year gate
10 agent, if -- if there are. Normally they burn out
11 before that, but yeah. Someone who is trained to do
12 that position, I -- I'm sure I could learn a few
13 things. What I can tell you is that it's a basic
14 responsibility of gate agents and they do it
15 routinely every day to ascertain someone's age
16 before they put them in an exit row. That's it.

17 BY MR. MAYE:

18 Q. Okay. Okay. I'm not asking that.

19 I'm asking, do you believe you're more
20 qualified to testify as an expert than a 30-year
21 gate agent at United?

22 MR. McKAY: Objection. Assumes facts not
23 in evidence. Frontier has not presented such an
24 expert, disclosed such an expert. And
25 argumentative.

1 THE WITNESS: Yes, sir. I can't answer
2 your question. I wouldn't know. In my -- 30-year
3 gate agent, I don't know one. So we have two-year
4 gate agents and one-year gate agents at United that
5 I routinely have to educate with regard to boarding
6 protocol, and I don't know how that speaks to
7 training, but that's the best answer I have for you.

8 BY MR. MAYE:

9 Q. Do you believe you're more qualified to
10 testify as an expert regarding gate agent issues
11 than a senior customer service manager at United?

12 MR. McKAY: Objection. Argumentative.

13 THE WITNESS: I don't know what a senior
14 customer service manager at United is.

15 BY MR. MAYE:

16 Q. Are you familiar with a unit at United
17 Airlines related to customer service?

18 A. Sure, broadly.

19 Q. And is a gate agent included in that -- the
20 customer service unit or division at United?

21 A. I -- I would have to look up the org chart
22 and to be able to give you a -- an answer that's
23 accurate. I -- I don't know, sir.

24 Q. Do you know if a gate agent is considered a
25 customer service agent?

1 A. Broadly, I -- my assumption would be yes.
2 Once again, the -- the answer I gave you in the
3 prior question would apply.

4 Q. So -- so you don't know if a gate agent is
5 considered a customer service agent?

6 MR. McKAY: Objection. Argumentative and
7 inconsistent with her testimony.

8 THE WITNESS: It's the same answer I just
9 gave you, sir.

10 BY MR. MAYE:

11 Q. See, I -- I -- the answer, I'll object to
12 the answer because I don't believe it was
13 responsive.

14 So I'll -- I'll ask it again, do you -- is
15 it fair to say that you do not know whether a gate
16 agent is considered a customer service agent?

17 MR. McKAY: Objection. Asked and answered.
18 Inconsistent with her testimony. And argumentative.

19 THE WITNESS: I'm -- I'm happy to -- to
20 call somebody at United on a break and I -- I -- my
21 assumption again, sir, is that customer service is a
22 very broad category. I would have to look in our
23 organizational chart to tell you exactly what
24 sub-tier gate agents fall under. I -- I'm sure
25 broadly under the 30,000-foot view of customer

1 service, I -- I'm sure we'll find gate agents in
2 there somewhere. I didn't create our employment
3 tiers and I can't speak to them, so ...

4 BY MR. MAYE:

5 Q. Do you know what company employed the gate
6 agent who was assigned to the subject flight?

7 A. Would you repeat the question, please?

8 Q. Yes.

9 Do you know what company -- or -- or strike
10 that.

11 In No. 10, you say the Frontier gate agent.

12 So is it your testimony that -- that you
13 believe that the gate agent was employed by
14 Frontier, agent regarding the --

15 A. That --

16 Q. -- subject flight?

17 A. That is my -- that is my assumption and
18 understanding, yes. I mean, it's -- it -- to
19 clarify, if it's not a direct employee, if the gate
20 agent was not a district employee of Frontier, then
21 my assumption is that they are contracted by
22 Frontier and, therefore, are operating as a
23 representative of Frontier while the aircraft is
24 being boarded.

25 Q. Do you know what company employed the gate

1 agent who was assigned to the subject -- subject
2 flight?

3 A. No.

4 Q. Would you agree that your statement in
5 No. 10 does not state what the industry standard is
6 with respect to gate agent duties?

7 A. I'm sorry, could you repeat that?

8 Q. Would you agree that your statement in
9 No. 10 does not state what the industry standard is
10 with respect to gate agent duties?

11 A. No.

12 Q. Why would you not agree to that statement?

13 A. Because it's a very -- the statement on its
14 face simply states that there's an industry standard
15 to occupy the exit row seat, which is 15 years of
16 age or older, and the gate agent failed to ascertain
17 the age of the individual before giving him a
18 boarding pass that allowed him to occupy the exit
19 seat.

20 Q. Would you agree in that No. 10 simply
21 states, "The Frontier gate agent failed to ascertain
22 A.D.'s age before allowing him to occupy the exit
23 row seat." And is that -- is that what No. 10
24 states?

25 A. That is exactly what No. 10 states.

1 Q. Okay. Now, but in No. 10, there's nothing
2 said or stated in No. 10 about what the industry
3 standard is with respect to what a gage agent --
4 gate agent has to do in its role in boarding
5 process?

6 MR. McKAY: Objection. Counsel, it's a
7 federal aviation regulation. Is she required to
8 cite every regulation when she gives an opinion?

9 BY MR. MAYE:

10 Q. Go ahead, ma'am.

11 A. Sir, it's -- it's -- these are conclusions
12 and opinions. They're -- they're -- they're
13 summaries of things that have been covered
14 previously in my report. So if you'd like, I'd
15 go -- I'd like to refer you back to my report where
16 I talk about specifically -- I mean, these are
17 conclusions and opinions that summarize things that
18 preceded these conclusions and opinions in my
19 report. So there's more information about this.
20 It's merely a summary of one of my opinions.

21 Q. So -- so is the answer -- do you agree with
22 me that there's nothing in No. 10 regarding industry
23 standard?

24 A. No, I don't agree with you.

25 Q. And where in No. 10 does it state the

1 industry standard with respect to a gate agent's
2 duties in a boarding processing?

3 A. It's a reference, sir, to -- once again, to
4 what was carefully and thoroughly delineated in my
5 report, just like all the rest of the conclusions
6 and opinions are. That's -- that's standard for
7 Rule 26 report protocol, that at the end of your
8 report, you summarize your conclusions and opinions
9 after you have laid them out previously in your
10 report, and that's what was done here in --

11 Q. Okay. I appreciate that, but there's
12 nothing in No. 10 about an industry standard;
13 correct?

14 A. Not correct.

15 Q. Well, can you -- can you -- can you read in
16 No. 10 where it states what the industry standard
17 is?

18 MR. McKAY: Objection. Argument- --

19 THE WITNESS: The industry -- the
20 industry --

21 BY MR. MAYE:

22 Q. No, ma'am. I'm asking you to read from
23 No. 10.

24 MR. McKAY: Objection. Argumentative.

25 / / /

1 BY MR. MAYE:

2 Q. Where in No. 10 does it say what the
3 industry standard is?

4 A. Where --

5 MR. McKAY: Brian, do we need to call the
6 Judge? Brian, you're harassing the witness. Do we
7 need to call the Judge?

8 MR. MAYE: John, please.

9 MR. McKAY: Brian --

10 (Simultaneous cross-talk.)

11 MR. MAYE: She's not answering the
12 questions, John.

13 (Simultaneous cross-talk.)

14 MR. MAYE: The answer is -- the answer is
15 no. The answer is it's not there. You know, we
16 just started --

17 (Simultaneous cross-talk.)

18 MR. MAYE: -- speaking objections --

19 MR. McKAY: Brian, I've asked you not to
20 talk over me, and we're going to call the Judge if
21 you insist --

22 MR. MAYE: We are going to call the Judge
23 because you already -- you've already had extended
24 speaking objections.

25 MR. McKAY: Let's call.

1 (Simultaneous cross-talk.)

2 MR. McKAY: Let's call.

3 MR. MAYE: Let's call him. Okay.

4 MR. McKAY: You go ahead.

5 MR. MAYE: Let me -- okay. I'll arrange
6 for it or do you want me to continue? Should I call
7 the Judge or do you want me to continue?

8 MR. McKAY: If you're going to stop
9 harassing her over this point, which is adequately
10 explained at the bottom of page 1 of her report and
11 the top of page 2, why don't you go read that before
12 you ask her further questions on this.

13 MR. MAYE: Okay. I'll -- I'll move on.

14 BY MR. MAYE:

15 Q. But, ma'am, I would like you to be
16 responsive to my questions.

17 A. I have been, sir.

18 Q. We're going to be here all day if you
19 refuse to respond --

20 A. I have all day, sir.

21 Q. Okay. Great.

22 Would you agree to a deposition of more
23 than seven hours?

24 MR. McKAY: No.

25 THE WITNESS: That's my counsel's ...

1 MR. McKAY: No is the answer.

2 BY MR. MAYE:

3 Q. Okay. No. 11, "The flight attendants
4 failed to follow Frontier's procedures and guidance
5 regarding sexual misconduct."

6 You've never been employed as a flight
7 attendant; correct?

8 A. That's correct.

9 Q. And you've never gone through a training
10 for the flight attendant position?

11 A. I have not gone through training for the
12 flight attendant position. I have gone through
13 extensive training alongside flight attendants
14 throughout my 30-year career.

15 Q. So you -- so the answer is no, you have not
16 gone through --

17 MR. McKAY: Objection. Argumentative.

18 BY MR. MAYE:

19 Q. -- training for the flight attendant
20 position?

21 MR. McKAY: Objection. Argumentative.

22 THE WITNESS: I believe that's what I just
23 stated, sir.

24 BY MR. MAYE:

25 Q. Okay. And have you ever testified as an

1 expert for in-flight issues?

2 A. As they relate to the interaction of the
3 flight crew and flight attendants, certainly.

4 Q. Have you -- have you testified as an
5 in-flight expert, not in relation to how the flight
6 attendant-pilot relationship works, but exclusively,
7 have you testified as an expert for in-flight
8 issues?

9 MR. McKAY: Objection to the form.

10 THE WITNESS: You're -- you're jumbling the
11 question, sir, because the first part of the
12 question you say as in-flight expert and then you
13 say in-flight issues, so if you want to clean that
14 up, I'll -- I'll answer it.

15 BY MR. MAYE:

16 Q. Have you testified as an expert exclusively
17 in a case for in-flight issues?

18 A. Yes.

19 Q. What -- what case is that?

20 A. I'll find it on a break. I've had
21 turbulence cases, medical cases. I -- if you're
22 going to state in-flight issues -- I think I -- I
23 mean, I think I can help you. I am not holding
24 myself out as an in-flight expert, i.e., a flight
25 attendant --

1 Q. Okay.

2 A. -- a trained flight attendant, but --

3 Q. Okay. Thank you.

4 A. Does that help you?

5 Q. Yes. It does help me. Thank you. Great.

6 No. 14, the dispatcher for Flight 2067

7 failed to provide any additional information or

8 guidance to the pilots to assist in their

9 decision-making.

10 Have you ever been employed as a

11 dispatcher?

12 A. No, sir.

13 Q. Have you ever gone through training for the
14 dispatcher position?

15 A. No, sir.

16 Q. Have you ever testified
17 exclusively -- strike that.

18 Have you ever testified as an expert
19 exclusively on dispatcher issues?

20 A. Exclusively?

21 Q. Yes.

22 A. If you -- if you mean to say that the only
23 issue in the case was relative to dispatcher actions
24 solely, then the answer is no. However, I will -- I
25 will add that I share joint responsibility under the

1 federal aviation relations with the dispatcher.

2 So -- so every commercial Part 121 flight that has a
3 dispatcher involved, which is every flight, has an
4 element to be considered with respect to dispatcher
5 actions. So when you say solely, no, but that's
6 not a -- that's really not a fair representation of
7 the world as it exists.

8 Q. Are you testifying in this case as an
9 expert on dispatch issues?

10 A. That is a component of my expert testimony,
11 yes.

12 Q. Do you believe you're qualified as an
13 expert on dispatch issues?

14 A. Yes, I do.

15 Q. And -- and that's based on what?

16 A. 30 years of a joint responsibility in
17 dispatching Part 121 commercial passenger flights
18 safely hand-in-hand with a dispatcher under the
19 federal aviation regulations.

20 Q. But you've never served as a dispatcher?

21 A. Correct.

22 Q. You ever supervised dispatchers?

23 A. Supervised, no. Sat alongside, yes, had
24 them in my cockpit jump seat, yes.

25 Q. Okay. Ma'am, it's going to be a long day

1 if -- if you keep on adding commentary that's not
2 responsive to my questions --

3 MR. McKAY: That was responsive to your
4 question, Counsel.

5 BY MR. MAYE:

6 Q. I respectfully ask that you just respond to
7 my questions.

8 MR. McKAY: Counsel, please don't tell the
9 witness not to answer questions that you --

10 MR. MAYE: John -- John, I appreciate your
11 comment. I can ask the witness to be responsive to
12 my questions.

13 MR. McKAY: Are -- are you a judge?

14 MR. MAYE: Please, John.

15 BY MR. MAYE:

16 Q. No. 15 says, "Frontier failed to provide
17 any formal training procedures or guidance to pilots
18 with regard to addressing sexual misconduct or
19 suspected human trafficking."

20 Do you agree that training, procedures and
21 guidance to pilots with regard to addressing sexual
22 misconduct or sexual -- excuse me, suspected human
23 trafficking are not required under FAA regulations?

24 A. Clearly they're not or --

25 Q. Okay. Thank you.

1 A. -- I'm -- I'm not aware that they are.

2 Q. Thank you.

3 Would you agree that training, procedures
4 and guidance to pilots with regard to addressing
5 sexual misconduct and suspected human trafficking
6 are not required under industry standards?

7 MR. MCKAY: Objection to the form.

8 THE WITNESS: The question is too broad for
9 me to -- to be able to answer. I mean, whose
10 industry standards? I mean, ICAO ...

11 BY MR. MAYE:

12 Q. Are -- are there any industry standards
13 that require pilots in the United States to be
14 trained with respect to addressing sexual misconduct
15 and human trafficking?

16 A. Not that I'm aware.

17 Q. Would you agree that Frontier's operations
18 manual has been approved by the FAA?

19 A. I -- I would agree.

20 Q. Would you agree that Frontier's operations
21 manual is consistent with industry standards?

22 A. Again, we're back to industry standards and
23 I don't know what -- what -- I would need a
24 definition of that, whose -- whose industry
25 standards we're -- we're comparing it to.

1 Q. Are you aware of any industry standards
2 that Frontier's operations manual is inconsistent
3 with?

4 A. I -- I -- same answer as I just gave you,
5 sir.

6 Q. And what -- what was that answer?

7 A. That I don't know the -- the industry --
8 the industry standard you're referencing, whether
9 it's ICAO, another major -- a major airline, another
10 low-cost carrier. I don't know whose standard
11 you're referencing, so it makes it impossible to
12 answer.

13 Q. Well, I'm asking you, are you aware of
14 any -- any industry standard that Frontier's
15 operations manual violates or is inconsistent with?

16 A. Well, first of all, sir, you're referencing
17 their operations manual, and I don't say anything
18 about that in No. 15. I -- I -- I said formal
19 training, procedures or guidance.

20 I can tell you that at United Airlines,
21 where I work, in my quarterly required
22 computer-based training, there's an entire module
23 dealing with this, and in Captain Shupe's
24 deposition, he testified that he's received no
25 training. So if -- if you want, I'll just reference

1 my own airline and it appears that I've received
2 more training, procedures and guidance than Captain
3 Shupe had.

4 Q. Okay. Other than United, are you aware of
5 any -- any industry standards -- or strike that.

6 Ma'am, I'm asking about Frontier's
7 operations manual.

8 A. Well, but you've referencing No. 15, sir,
9 and I don't --

10 Q. No, ma'am --

11 A. -- know anything about an operations
12 manual.

13 Q. -- ma'am. Okay. Forget about 15, okay?

14 A. Okay.

15 Q. Ma'am, are you aware of any industry
16 standard that Frontier's operations manual violates
17 or is inconsistent with?

18 A. What section of their operations manual?

19 Q. Their entire manual, every piece of the
20 manual.

21 A. I haven't read their entire manual, sir.

22 Q. Okay. So is -- the answer is no?

23 A. The answer is I haven't read their entire
24 manual, so I'm unable to answer your question.

25 Q. Parts of the manual that you have read that

1 are identified in your report, are those portions
2 inconsistent with any industry standards?

3 A. I -- I don't know what the benchmark
4 industry standards you're referring to. I -- I can
5 only answer comparatively to the knowledge I
6 possess, which is my own manual and over the many
7 years of testifying, other -- other airlines
8 manuals.

9 Q. So -- so you're not able to compare the
10 policies and procedures operations manual that
11 you've reviewed with any industry standards?

12 A. Sir, this is going to be a long line of
13 questioning if we can't identify what you're -- what
14 you are referencing in terms of industry standards.
15 Are you talking about ICAO?

16 Q. All of them. All of them. Any -- any
17 industry standard that you're aware of. Have you --
18 let's say this, have you compared the procedures
19 that you've reviewed in the operations manual with
20 any industry standards?

21 A. Are we specifically referring to the --
22 the -- the pilots? Are we -- are we talking
23 about -- I mean, there's a bunch of manuals in
24 question in here, right. We've got the flight
25 attendant's manual. We've got the pilot's flight

1 manual, the pilot's FOM --

2 Q. Well --

3 A. -- are we talking about all of them and
4 some?

5 Q. Ma'am -- okay, I -- the question was the
6 operations manual. I'm not talking about the flight
7 attendant manual because you're not a flight
8 attendant expert. I'm talking about the operations
9 manual, the --

10 A. The pilot's FOM --

11 MR. McKAY: Objection - sorry. Objection
12 to the form of the question.

13 BY MR. MAYE:

14 Q. Yes, the pilot's operation manual, the
15 flight operations manual, sections that you have
16 referenced in your report, have you compared any of
17 those to any industry standards in preparing your
18 report?

19 A. I don't have a different answer than the
20 one I just gave you. I -- I don't know which
21 industry standards you're talking about. I know
22 what my own major airline [sic]. I know what
23 American's says, I know what Delta's says. I -- I
24 mean -- I don't feel like we really have to do this
25 to one another. I -- I know that what is in their

1 manual is reasonably consistent with -- with what is
2 in my own and other -- and other major airline
3 manuals. I mean, does that help?

4 Q. It helps a little, but my question is, did
5 you take the provisions from the manual that --
6 that -- the flight ops manual that's referenced in
7 your report, did you take those provisions and
8 compare them side by side with any industry
9 standards?

10 MR. McKAY: Objection to the form.

11 THE WITNESS: My own -- my own airline.

12 BY MR. MAYE:

13 Q. Okay. And -- and did you do anything else?

14 A. I don't know what that means. Did I --

15 Q. Well, you --

16 A. -- do anything else, what do you mean?

17 Q. Did you compare them to any -- any other
18 standard? You just said -- I said did you compare
19 it to anything and you said, "My own airline." And
20 I said, okay, did you compare --

21 A. I also just testified previously, sir,
22 that -- that I'm aware of what -- what is -- what
23 are in other major Airlines' manuals and -- and that
24 it's reasonably consistent. There's some verbiage,
25 you know, changes and there are some minor

1 definitions that don't line up, but, yes, I -- and I
2 don't have to put them side by side. I've been
3 doing this for 30 years.

4 Q. I know. I understand that. I'm just
5 asking, did you?

6 A. Yes.

7 Q. With industry standards?

8 A. I'm -- I don't have a response for your
9 continuing to say industry standards other than what
10 I've given you.

11 Q. Okay. So you -- you can't identify --

12 A. You're not defining that for me. If you
13 want to define --

14 Q. But you're the -- you're the expert. I
15 mean, I'm asking you, did you compare them to any
16 industry standards? And you can't -- did you or
17 didn't you?

18 MR. McKAY: Brian, is there a way that you
19 can conduct this deposition with -- without being so
20 harassing and -- and jumping on everything she says?
21 I'm asking. And, also, is there a way that you can
22 refrain from stepping on what she says or stepping
23 on what I'm saying? Just asking.

24 MR. MAYE: I bust [sic].

25 / / /

1 BY MR. MAYE:

2 Q. So, ma'am, you mentioned -- can you -- can
3 you identify one industry organization that has --
4 that establishes standards for your industry?

5 A. The Federal Aviation Administration.

6 Q. Okay. And all the provisions that you
7 reviewed from Frontier's operations manual were
8 consistent with the federal regulations; correct?

9 A. They appear to be, yes.

10 Q. Okay. Can you name another industry
11 standard organization?

12 A. I -- I don't -- I would need to understand
13 the context of how -- how you're -- what -- what
14 you're looking for.

15 Q. Okay. I guess I'll move on.

16 So -- so you can't -- you can't name
17 another organization that -- that --

18 A. Of course I can.

19 Q. Okay. Then --

20 A. I mean, the -- I can name the European
21 aviation safety -- I mean, the -- the Transport --
22 Transport Canada. I don't -- the NCSV, the ICAO.

23 Q. How about one applies to the -- to U.S.
24 carriers.

25 A. The Federal Aviation Administration sets

1 the rules and regulations for United States Part 112
2 carriers.

3 Q. So that's the only organization, that
4 you're aware, that sets industry standards with
5 respect to U.S. carriers?

6 MR. McKAY: What kind of standards?
7 Objection to the form of the question. What
8 standards are you talking about?

9 BY MR. MAYE:

10 Q. Ma'am, you can answer.

11 A. I have answered, sir. I don't have another
12 answer than the one I just gave you.

13 Q. Okay. So would you agree that the training
14 Frontier pilots received was approved by the FAA?

15 A. Training in -- in what regard?

16 Q. Their overall training.

17 A. I would agree that there is an FAA-approved
18 protocol for training. I -- I can't speak to how it
19 was effected or how it was provided to the pilots.
20 I have no knowledge of that.

21 Q. I'm not asking that, ma'am. I'm asking,
22 would you agree that Frontier's training -- the
23 training program, the content, the substance of
24 their training to the pilots, was approved by the
25 FAA?

1 MR. McKAY: Objection to the form.

2 BY MR. MAYE:

3 Q. If you know; maybe you don't know.

4 A. I have to assume that the content was
5 approved or -- or there'd be a halt in training.
6 Yes, the -- the content of the training is FAA
7 approved, of course.

8 Q. Page 1 of your report, your Section 2.0,
9 last paragraph says, "I am aware that my duty as an
10 expert witness is to assist the court and not act as
11 an advocate for any party. This report has been
12 prepared in accordance with that duty."

13 Is it your testimony that your
14 interpretation of the facts in this case is not
15 slanted in any way in favor of plaintiffs?

16 A. Could you ask that again, please?

17 Q. Sure.

18 Is it your testimony that your
19 interpretation of the facts in this case, as
20 reflected in your report, is not slanted in any way
21 in the favor of plaintiffs?

22 MR. McKAY: Objection to the form. I don't
23 understand it.

24 THE WITNESS: Yeah. I'm having a hard time
25 following whether -- whether I'd say yes or no. I

1 mean, if you're asking am I biased toward the
2 plaintiffs in -- in all the discovery materials I
3 read and in preparation of my report, my answer is,
4 no, I am not biased. I -- I read the evidence and
5 prepared my report.

6 BY MR. MAYE:

7 Q. Okay. So in -- in viewing the facts, in
8 making determinations about the facts, your
9 determinations are unbiased and neutral.

10 Is that what you're saying?

11 A. Yes, sir.

12 Q. Okay. And are all of your statements in
13 your report objective statements?

14 A. Yes.

15 Q. How about the conclusions in your report,
16 are they based on objective analysis?

17 A. Yes.

18 Q. You've been paid by plaintiffs to
19 prepare -- to prepare this report; correct?

20 A. Yes.

21 Q. And you've been paid by the plaintiffs to
22 provide opinions in this case; correct?

23 A. Yes.

24 Q. Page 2 --

25 MR. McKAY: Sorry. Is there a question?

1 MR. MAYE: Yeah, there will be. Yeah.

2 Sorry. I'm trying to find the passage.

3 (Certified reporter interruption.)

4 THE VIDEOGRAPHER: Going off the record.

5 The time is 10:48 AM. We're off the record.

6 (Recess at 8:48 a.m. to 8:51 a.m.)

7 THE VIDEOGRAPHER: We're back on the
8 record. The time is 10:51 AM.

9 BY MR. MAYE:

10 Q. Ma'am, the third paragraph you state that,
11 "Upon approaching their row, Nickel asked A.D. if he
12 would like something to drink. She testified that
13 A.D. looked to his father; however, P.D. had fallen
14 asleep, so A.D. merely shook his head no without
15 verbally responding," and then you state in
16 parenthesis, "Notable is that all beverages other
17 than water cost money on Frontier flights, a fact
18 that A.D. would have been aware of from the cabin
19 announcement prior to departure."

20 What was the purpose of noting that
21 beverages cost money on Frontier flights and that
22 A.D. would have been aware of that?

23 A. Merely to point out that he looked to his
24 father to -- that it is possible that he would look
25 to his father to ask if they could purchase a

1 beverage or if he had permission to do so. However,
2 his father was asleep, so not wanting to wake him,
3 he just said no and moved on.

4 Q. Well, what's -- why -- why is the fact that
5 Frontier charges for drinks relevant to piloting
6 issues?

7 A. I didn't state that it was relevant --
8 relevant to piloting issues.

9 Q. But I guess -- then -- then why is this
10 statement in this report if it's not relevant to
11 piloting issues?

12 A. I don't understand the question. I'm
13 sorry.

14 Q. I'm -- I'm asking -- highlighted two
15 sentences, how -- is it relevant in any way to
16 piloting issues?

17 MR. McKAY: Objection to the form.

18 THE WITNESS: I -- I don't believe I
19 represented anywhere in the report that this had
20 anything to do with piloting issues.

21 BY MR. MAYE:

22 Q. So if it's not -- so if these sentences are
23 not relevant to piloting issues, I'm asking, what is
24 the purpose of your including it in this report?

25 A. The -- the pilot in command, sir, is

1 responsible for the conduct of all of the employees
2 under his or her charge throughout the duration of
3 the flight. So if -- if you want to broadly address
4 piloting issues, my responsibility as pilot in
5 command and, in this case, Captain Shupe's
6 responsibility as pilot in command, extends quite
7 broadly over the conduct of all of the employees
8 under this charge, so if you -- you want to tie that
9 to piloting issues, that's -- it's laying a
10 foundation for the conduct of the flight attendants
11 and laying out what -- how the -- this family was
12 communicated with or -- or the lack of
13 communication, really, with this family throughout
14 the course of this flight. It's foundational and
15 contextual.

16 Q. So specifically, how is these two sentences
17 relevant to your opinions about the performance of
18 Captain Shupe in this case?

19 MR. McKAY: Objection to the form of the
20 question.

21 THE WITNESS: Well, we -- there's --
22 there's a lot of space between A -- A and B. A and
23 C in this case. I mean, this was, as I mentioned,
24 as the report states, the sole communication with
25 this family by any crew member, prior to their

1 separation, was this communication. And I attempt
2 to pause [sic] it a very reasonable explanation for
3 what the flight attendant, at least initially --
4 there's so much conflicting testimony with these
5 flight attendants, but what -- what a reasonable
6 explanation for what they may have observed during
7 this sole communication might have been. That's it.

8 BY MR. MAYE:

9 Q. And why did you note that A.D. would have
10 been aware that beverages cost money on Frontier
11 flights? Why -- why is that --

12 A. If --

13 Q. -- relevant -- why -- why did you note that
14 in the context of laying the foundation for
15 communication issues?

16 A. Because simply that, had his father been
17 awake, he would have been able to look to him and
18 ask if he could purchase a beverage if he wanted a
19 Pepsi or -- or whatever it was. However, his father
20 wasn't awake, so he likely decided not to wake and
21 not make a decision that -- to spend money that he
22 might not have permission to spend. It's pretty
23 simple.

24 Q. Wouldn't that have been true if the
25 beverages were free?

1 MR. McKAY: Objection to the form.

2 THE WITNESS: No.

3 BY MR. MAYE:

4 Q. No.

5 Why do you say that?

6 A. Because there'd be no money being spent. I
7 mean -- I don't -- I don't really -- I mean, he's --
8 he's not -- he's wanting to have permission perhaps
9 to -- to purchase something. However, his father is
10 asleep. He doesn't want to wake him. If it were
11 free, I'm sure he would just, you know, have said
12 sure, I'll take a Pepsi.

13 Q. So -- but you're speculating; right?

14 MR. McKAY: Objection to the form.

15 Argumentative.

16 THE WITNESS: It is a -- of course --

17 BY MR. MAYE:

18 Q. Okay.

19 A. -- but it -- it's a fairly reasonable
20 explanation for not wanting to wake his father who's
21 already asleep. I -- I can't imagine too many
22 alternate scenarios.

23 Q. Ri- -- well, the alter- -- alternate
24 scenario is, the soda was free or A.D. did -- he
25 assumed it was free and when he was asked whether

1 he -- he wanted a soda, he looked at his father for
2 permission for the free soda and his father was
3 asleep.

4 MR. McKAY: Objection to the form.

5 BY MR. MAYE:

6 Q. That's the alternative position.

7 MR. McKAY: Same objection.

8 BY MR. MAYE:

9 Q. Would you agree?

10 A. No, I wouldn't. I don't find that
11 credible.

12 Q. That's interesting.

13 MR. McKAY: Objection to the form.

14 BY MR. MAYE:

15 Q. You just agreed that you're speculating,
16 but the alternative scenario you find not credible.
17 How do you reconcile that?

18 MR. McKAY: Objection to the form.
19 Argumentative.

20 THE WITNESS: I don't reconcile it. That's
21 the most re- -- I've sat in the back of a thousand
22 airplanes deadheading and watched families interact
23 with their children and it's -- it's the most
24 reasonable explanation that I could come up with.
25 It certainly is more reasonable than the scenario

1 developed by the flight attendants later or
2 something they didn't even consider amongst
3 themselves.

4 BY MR. MAYE:

5 Q. So you believe that in -- in noting this,
6 that the beverages were -- the beverages cost money,
7 then A.D. would have been aware of that from the
8 cabin announcements, you believe that that's an
9 objective observation?

10 A. I sure do.

11 Q. So you believe that -- or -- or you agree
12 that -- you're speculating that A.D., a 12-year-old,
13 would have been aware that beverages cost money
14 based on hearing the cabin announcements?

15 MR. McKAY: Objection to the form.
16 Argumentative.

17 THE WITNESS: I don't know what -- what
18 A.D. being 12 years of age, he -- he certainly is of
19 sound mind and capable of hearing and if he was
20 paying attention to the announcement, which he
21 appears to be a very bright young man, he would have
22 heard it and know. Yeah, I don't -- I don't know
23 what his age has -- has to do with it.

24 BY MR. MAYE:

25 Q. No, I didn't ask that. I said do you agree

1 that you're speculating that he would have heard
2 that announcement?

3 MR. McKAY: Objection to the form.
4 Argumentative.

5 THE WITNESS: It's -- the announcement
6 was -- was made. Am I speculating as to whether he
7 listened or heard it?

8 BY MR. MAYE:

9 Q. Correct.

10 A. It's not his first flight either. So if
11 he's not aware just from -- from this flight, he's
12 likely aware from prior flights he's taken. I --
13 you know, it's just not a big reach.

14 Q. So I'm sorry. I wasn't clear on your
15 answer.

16 So you don't agree that you're speculating
17 that A.D. would have been aware that beverages cost
18 money because he would have heard the announcement?

19 MR. McKAY: Objection to the form of the
20 question. Brian, may I just ask politely that as
21 far as what's going on inside your brain in response
22 to her answers, could you just keep that to yourself
23 when asking questions.

24 MR. MAYE: John, she -- she already said
25 that she was speculating. Now, she's saying she --

1 she's not speculating.

2 (Simultaneous cross-talk.)

3 MR. McKAY: Understood, but -- but your
4 own --

5 MR. MAYE: Okay.

6 MR. McKAY: -- full impressions of her
7 answers aren't really relevant, and I'm just asking
8 if you would please keep them off the record.

9 MR. MAYE: I'll do what I want to do, John,
10 okay?

11 MR. McKAY: It's not okay, actually.
12 That's -- that's suggesting that you want to act in
13 an unprofessional way --

14 MR. MAYE: No, I'm acting professionally.
15 I will -- I will act professionally, which I believe
16 I'm doing, and I appreciate -- I would appreciate it
17 if you keep your objections to nonspeaking
18 objections.

19 MR. McKAY: I'm trying my best.

20 BY MR. MAYE:

21 Q. I'll try this one more time, ma'am.

22 So are you speculating when you say that
23 A.D. would have been aware of the cost -- would have
24 been aware that sodas cost money because he would
25 have heard the announcement? Are you speculating

1 when you make that statement?

2 A. I am assuming that to be true based upon
3 his prior experiences on flights as well as paying
4 attention to the announcements for this flight, yes;
5 if you want to call it speculating, I think it's --
6 I don't think it's speculation. Personally, I think
7 it's a very reasonable assumption.

8 Q. Okay. The next paragraph, "Despite the
9 entire benign and brief nature of both encounters
10 between Bond" -- strike that.

11 Earlier, I asked you what the purpose of
12 noting this exchange, and you said that you wanted
13 to point out with foundation that this was the only
14 communication the flight attendants had with A.D.,
15 but that -- that's not accurate, right, because in
16 this paragraph, you go on to talk about an encounter
17 with flight attendant Bond?

18 MR. McKAY: Objection to the form.
19 Argumentative. You picked the sentence out of
20 context. The beginning of the paragraph said,
21 "After departure of the sole communication."

22 MR. MAYE: Noted, John.

23 BY MR. MAYE:

24 Q. Ma'am, so I asked you what the -- what the
25 purpose or the relevance of -- of noting the -- the

1 beverage and the cost of the beverage and you said
2 you wanted to establish that this was the sole
3 communication. So let's just clarify, and I
4 appreciate Mr. McKay's comment, so were you
5 meaning -- meaning to say the relevance of that
6 paragraph is only to establish the communication
7 with A.D. after departure?

8 A. I don't understand your question, sir.

9 Q. I earlier asked you what the reason you --
10 this -- this paragraph, what was the relevance to
11 piloting issues. And it's my recollection that you
12 said it was to establish a foundation regarding the
13 communication between the flight attendants and A.D.
14 And this represents the only communication that they
15 had with A.D. prior to his being moved and what I'm
16 asking you is, did you mean to say that this was the
17 only communication they had with A.D. after
18 departure before the move?

19 A. What I meant to say is exactly what my
20 report says, sir, which is the sole communication,
21 and it's not just A.D.; it's with the family. It's
22 with Peter DelVecchia and A.D. The only interaction
23 or communication by any crew member prior to the
24 separation after the aircraft was airborne was the
25 beverage service communication. That --

1 Q. Okay.

2 A. -- that's what that says.

3 Q. Okay. And -- and that's the -- that's the
4 relevance of putting that -- those two sentences in
5 there, in your report?

6 A. Which two sentences?

7 Q. The two sentences that I -- I just
8 highlighted -- or I'm sorry. There's three
9 sentences.

10 A. There's a lot more than two sentences in
11 there.

12 Q. Yeah, sorry. There's the three sentences.
13 This -- this paragraph that I've highlighted, so
14 that's -- that's the reason you've written this
15 statement is to establish that this was the only
16 communication between the flight attendants and the
17 plaintiffs after departure and before the
18 separation.

19 A. Yes, sir. And the relevance is that there
20 are procedures and protocol which the flight
21 attendants failed to follow subsequent to this,
22 prior to this family being separated.

23 Q. Okay. So the next paragraph, "Despite the
24 entire benign and brief nature of both encounters
25 between Bond and Nickel and the DelVecchias,"

1 parenthesis, "and without ever speaking to them
2 herself, a flight attendant, Chelsie
3 Bright-Sakurada, notified the captain, Rex Shupe,
4 and the first officer, Shawn Mullin, that she had
5 observed inappropriate touching between the adult
6 and the minor."

7 How is this observation of yours relevant
8 to piloting issues?

9 A. That -- that is not an observation of mine,
10 sir. I -- I don't know what you mean by observation
11 of mine.

12 Q. That's how I'm characterizing this
13 sentence, your observation. Okay. I'll say -- let
14 me -- well, I'll say it differently. Your -- your
15 interpretation of the facts -- would you agree this
16 is your interpretation of the facts based on your --
17 your review of the testimony of witnesses?

18 MR. MCKAY: Objection to the form.

19 THE WITNESS: I don't -- I don't -- you're
20 going to have to rephrase the question, please. I
21 don't understand what it is.

22 BY MR. MAYE:

23 Q. Is -- your statement that I've highlighted,
24 "Despite the entirely benign and brief nature of
25 both encounters between Bond and Nickel and the

1 DelVecchias and without ever speaking to them
2 herself, the A flight attendant, Chelsie
3 Bright-Sakurada, notified the captain, Rex Shupe,
4 and the first officer, Shawn Mullin, that she had --
5 she had observed inappropriate touching between the
6 adults." What I'm asking you is, you characterize
7 the -- the encounters between Bond and Nickel and
8 the DelVecchias as "benign and brief" in nature.

9 Is that your interpretation of the
10 encounters between Bond and Nickel and the
11 DelVecchias based on your review of the testimony in
12 this case?

13 A. Yes.

14 Q. Okay. And how is your characterization of
15 the encounters as "benign and brief" relevant to
16 pilot -- piloting issues in this case?

17 A. Once again, sir, I didn't suggest that it
18 was.

19 Q. Then what is -- what is the purpose, then,
20 for this to be included in your report if it's not
21 relevant to piloting issues?

22 A. I -- I guess, sir, what -- what we --
23 what -- where our disconnect is, is that as I -- as
24 I previously stated, when we did this about the last
25 paragraph, as pilot in command, just like Captain

1 Shupe was in this -- in this matter, I have a
2 responsibility to follow my procedures and protocol,
3 as well as insuring that those under my charge,
4 i.e., the flight attendants, do the same. That is
5 how we come full circle to what your -- you continue
6 to refer to as piloting issues and this paragraph
7 and what you have highlighted on the screen right
8 now, is to underscore the fact that any
9 communication, however brief and benign it was --
10 and I refer to the preflight cooperation and
11 removing the -- the DelVecchias from the exit row,
12 which was not -- did not pose a problem for them.
13 They did not push back or argue -- argue. They just
14 changed seats through no fault of their own. That
15 was benign and brief as well as the incredibly
16 benign and brief beverage service communication
17 somehow later became an issue for these flight
18 attendants, and Captain Shupe, as pilot in command,
19 is responsible for the conduct of these flight
20 attendants and them following their prescribed
21 procedures and protocol and that's how it ties into,
22 quote/unquote, piloting issues.

23 Q. By characterizing the encounters as "benign
24 and brief," are you suggesting or making a
25 commentary about the -- the veracity or the

1 integrity of -- of what flight attendant Sakurada --
2 Sakurada observed?

3 MR. McKAY: Objection to the form.

4 THE WITNESS: I don't understand the
5 question. Would you please rephrase that?

6 BY MR. MAYE:

7 Q. Sure.

8 Are you suggesting that what flight
9 attendant Sakurada observed should not have been
10 perceived as inappropriate touching?

11 MR. McKAY: Objection to the form.

12 THE WITNESS: I -- I can't -- I can't get
13 inside flight attendant Sakurada's mind to perceive
14 what she described as affection between a father and
15 a son being inappropriate; I can't. What -- what
16 the intent there is that there was no interaction.
17 She never spoke to them. She never directly
18 interacted with them. That -- that there was a
19 complete lack on her part of any effort to discern
20 the relationship, ask questions, do anything that is
21 specified in her manual if she suspects something
22 inappropriate and -- and that's exactly what
23 these -- these folks had not been disruptive,
24 argumentative, caused any kind of a scene. There
25 were merely sitting as father and son on a flight.

1 BY MR. MAYE:

2 Q. Okay. So you're -- you're not challenging
3 whether or not flight attendant Bright-Sakurada's
4 observation of inappropriate touching was
5 misperceived?

6 MR. McKAY: Objection to the form.

7 THE WITNESS: No. I am challenging that.

8 (Simultaneous cross-talk.)

9 THE WITNESS: I don't believe -- I -- I do
10 not hold the opinion that a father touching his
11 son's face in a -- that a father touching his son's
12 face is somehow deemed to be inappropriate.

13 BY MR. MAYE:

14 Q. But I -- I thought you said that you -- you
15 can't get into the head of flight attendant
16 Bright-Sakurada?

17 A. Well, I can't, but I can get into my own
18 head and tell you I've -- I've seen a picture and
19 her own testimony of what the facial touching looked
20 like and I -- I personally cannot conceive how that
21 would be perceived as inappropriate. My parents
22 touched my face that way my entire childhood. I
23 touch my nephew's face that way right now and he's
24 22 years old, so that's --

25 Q. You -- you --

1 A. -- I can't get into her head, but --

2 Q. Right. You --

3 A. -- she did no -- nothing to try and discern
4 or get more information.

5 Q. I'm not talking about what happened after.
6 I'm talking about what she perceived. You have no
7 reason or no basis to challenge whether her
8 perception was, you know, an honest, good-faith
9 perception of what she observed?

10 MR. MCKAY: Objection as to the form of the
11 question. Argumentative.

12 THE WITNESS: Well, sir, I think I just
13 stated my basis to challenge that would be my own
14 life experience and -- and what I observed her --
15 her later in her own deposition demonstrating as the
16 touching. That would be my -- my -- my challenge.

17 BY MR. MAYE:

18 Q. So -- so what you're saying -- so you're
19 testifying that you believe she misperceived what
20 she saw?

21 A. I have no -- I'm not a -- a psychologist or
22 a human factors expert -- well, I am a human factors
23 expert in aviation, but I'm -- I'm not -- I'm trying
24 to help here. I don't know what -- what she
25 perceived. I can tell you what I have reviewed in

1 discovery evidence that she said she witnessed and
2 it's completely incongruent with being described as
3 inappropriate. And not only that, she -- she made
4 no effort to gather any more information about her
5 perception.

6 Q. Ma'am, I'm sorry. I'm -- I'm not talking
7 about what happened after. I'm talking about her
8 observation of the touching of the face, the
9 stroking of the face. She perceived that as
10 inappropriate touching; now, I know that -- that
11 you've said that based on the description, you
12 wouldn't consider it inappropriate.

13 What I'm asking is, are you testifying that
14 you believe her observation was not an honest,
15 authentic, good-faith observation of what she saw?

16 MR. McKAY: Objection. Asked and answered.
17 Objection. Argumentative.

18 THE WITNESS: I didn't characterize one way
19 or the other, sir. I just --

20 BY MR. MAYE:

21 Q. Okay.

22 A. -- I just said after observing what she
23 perceived to be -- this is what she did. She went
24 to the cockpit and reported this. I didn't -- I
25 didn't accuse her of being not in good faith --

1 Q. Okay.

2 A. -- and I'm not doing that now.

3 Q. Okay. I just want to be clear on that.

4 So you're not -- you're not saying that she
5 misperceived what she saw?

6 MR. McKAY: Objection to form --

7 THE WITNESS: I'm not saying that she did
8 or that she didn't.

9 MR. MAYE: Okay.

10 THE WITNESS: I -- and I understand you
11 don't want me to keep going about what happened
12 later. I'm saying --

13 BY MR. MAYE:

14 Q. We'll get into that.

15 A. Okay.

16 Q. We'll get into it later.

17 A. All right.

18 MR. McKAY: Maybe.

19 MR. MAYE: I'm sorry, John?

20 MR. McKAY: I'm sorry, Brian? What?

21 MR. MAYE: I'm sorry, did you say
22 something?

23 MR. McKAY: I don't think so.

24 MR. MAYE: Okay. I thought you said
25 something.

1 BY MR. MAYE:

2 Q. Would you agree based on your review of the
3 testimony that flight attendant Sakurada was
4 troubled by what she observed going on between
5 Mr. DelVecchia and A.D.?

6 A. She appeared to be since she asked for a --
7 she asked to come up to the cockpit.

8 Q. The next -- you know, I'm sorry. I have
9 a -- I'm a little under the weather -- under the
10 weather. Can we take a five-minute break so I can
11 just get some water?

12 A. Sure.

13 Q. Okay.

14 THE VIDEOGRAPHER: Going off the record.
15 The time is 11:22 AM. We're off the record.

16 (Recess at 9:22 a.m. to 9:27 a.m.)

17 THE VIDEOGRAPHER: We're back on the
18 record. The time is 11:27 AM.

19 BY MR. MAYE:

20 Q. Captain, the next -- next paragraph, you
21 state that Captain Shupe should have attempted to
22 data gather or -- or fact find.

23 What -- what facts do you believe that
24 Captain Shupe should have attempted to gather?

25 A. I believe he should have in -- in -- by his

1 own testimony, he had no training in suspected human
2 trafficking or suspected sexual molestation-type
3 issues, so I believe he should have asked -- I'm
4 just going to refer to her as Chelsie because it's
5 easier than her hyphenated name.

6 Q. Okay.

7 A. He should have asked his A flight
8 attendant, Chelsie, to share with him what her
9 formal training/guidance/protocol was and if she
10 felt that this was, in fact, a situation that
11 warranted proceeding under that protocol, I believe
12 he could have asked his dispatcher for their --
13 their names in order to ascertain the relationship.
14 I believe he could have directed her to go back and
15 do the same, ask for their boarding passes, initiate
16 nonthreatening conversation as part of their protocol,
17 ask where they're traveling to. There are -- there
18 are many things along those lines that Captain Shupe
19 could -- could have done at that point and neglected
20 to do, failed to do.

21 Q. You mentioned a protocol; what protocol are
22 you talking about?

23 A. Well, the -- the Frontier flight attendant
24 have both, as I mentioned in my report, guidance
25 with regard to suspected human trafficking and/or

1 suspected sexual molestation. It's -- it's outlined
2 in my report. They -- they have guidance that has
3 been provided to them and none of that was followed.

4 Q. So you're -- you're testifying that the
5 captain should have inquired about whether
6 Mr. DelVecchia and A.D. were related?

7 A. Well, certainly that would be a logical
8 place to start. An adult --

9 Q. And --

10 A. Go ahead.

11 Q. Okay. If you had been the captain on an
12 United flight and the flight attendant told you that
13 an adult was touching a child's face in a -- a
14 sexual manner that made the flight attendant
15 uncomfortable, is -- is it United's policy for you
16 to ask the two people involved whether they're
17 related?

18 MR. McKAY: Objection to the form of the
19 question.

20 BY MR. MAYE:

21 Q. Before -- before actually taking action?

22 MR. McKAY: Objection to the form of the
23 question.

24 THE WITNESS: I don't believe there is
25 testimony in any of the discovery materials that --

1 that the facial touching was mentioned to be in a
2 sexual manner, just that there was a, I guess,
3 stroking of the face. I don't -- I -- I don't
4 believe I reviewed anything that actually used the
5 word sexual. So I -- I would say that I'm unable to
6 answer the question based on you phrasing it that
7 way.

8 BY MR. MAYE:

9 Q. I'm saying -- ma'am, are you objecting to
10 my question?

11 MR. McKAY: Objection to the form of the
12 question.

13 BY MR. MAYE:

14 Q. I don't understand.

15 A. I'm just saying that there's no -- there's
16 no evidence that I've reviewed that said the facial
17 touching was sexual and of course --

18 Q. That's fine, ma'am, but, ma'am, I'm asking
19 the questions and this the question I'm posing to
20 you and I ask that you answer it, okay. I'm asking
21 if -- if you were a captain on a United flight and
22 the flight attendant told you that an adult was
23 touching a child's face in a sexual manner that made
24 the flight attendant uncomfortable, are you saying
25 that you would ask the flight attendant to ask the

1 two people involved whether they are related before
2 you acted?

3 MR. McKAY: Objection to the form of the
4 question. Objection. Argumentative. Objection.
5 Harassing the witness.

6 THE WITNESS: I certainly would gather more
7 information to find out why the flight attendant was
8 uncomfortable and I could certainly imagine that I
9 would ask what their protocol was, and after
10 reviewing it, I would ask him or her to go back and
11 initiate that protocol which would begin by asking
12 nontargeting questions, such as is provided in their
13 protocol.

14 BY MR. MAYE:

15 Q. So is it United's protocol for a pilot to
16 respond to a report by a flight attendant of
17 observed sexual misconduct to direct the flight
18 attendant to ask if the two individuals involved are
19 related before taking action?

20 MR. McKAY: Objection to the form.
21 Argumentative. Harassing.

22 THE WITNESS: Well, that's a big jump from
23 where we just were I -- again, as pilot in command,
24 sir, I would listen to the flight attendant's
25 concerns and then as per my training and

1 responsibility, I would gather all of the
2 information I could regarding the flight attendant's
3 concerns, i.e., specific descriptions of what was
4 involved. We were discussing facial touching and
5 now your -- your next question is sexual misconduct.
6 I -- I don't know -- you would have to tell me what
7 was directly observed or what I'm being told, but
8 these are very generalized broad terms that you're
9 now using, and I'm -- as pilot in command, I'm going
10 to gather all of the information I can before I make
11 any decision about which action I'm going to take.

12 BY MR. MAYE:

13 Q. You didn't answer my question, but -- so
14 I'll ask -- I'll ask a different question.

15 MR. McKAY: Objection. Argumentative.
16 Harassing.

17 Brian, can we just ask questions and not
18 provide commentary?

19 BY MR. MAYE:

20 Q. Okay. Does United Airlines require a pilot
21 to inquire about two passengers' relationship,
22 whether or not they're related, when one passenger
23 is observed committing sexual misconduct against
24 another passenger? Is -- is a -- is a United pilot
25 obligated to ask about whether the two are related

1 before the pilot directs that the victim is moved
2 away from the perpetrator?

3 A. First of all, I'm going to substitute pilot
4 in all of your questions with captain.

5 Q. I'm sorry, captain.

6 A. Because there are two pilots.

7 Q. I understand.

8 A. And once again, my authority as captain --
9 you -- you can't outline every specific chain of
10 events in a dynamic sequence of events or -- what --
11 what have you. What I am required to do as captain,
12 what Captain Shupe was required to do, is -- is
13 thoughtfully and thoroughly gather all the
14 information possible prior to making an impactful
15 decision, such as separating family members as
16 happened in this case.

17 Q. Okay. I -- I'll object to the response.

18 MR. McKAY: Brian --

19 BY MR. MAYE:

20 Q. And I will ask -- ask it again.

21 MR. McKAY: Brian, can you just ask the
22 questions, please?

23 BY MR. MAYE:

24 Q. Captain, I'll ask the question again.

25 Does United require its PICs to inquire

1 about whether passengers involved in a sexual
2 misconduct -- involved in suspected sexual
3 misconduct, does United require the PIC to inquire
4 about whether the passengers are related before the
5 pilot separates the victim from the perpetrator?

6 MR. McKAY: Objection. Assumes facts not
7 in evidence. Objection to the form of the question.

8

9 MR. MAYE: So --

10 MR. McKAY: Sorry, are we still asking?

11 MR. MAYE: Go ahead, John --

12 MR. McKAY: Objection to the form of the
13 question. Objection. Argumentative. Objection.
14 Harassing the witness.

15 MR. MAYE: John --

16 MR. McKAY: Hi.

17 MR. MAYE: -- regarding your objections,
18 can I ask that you simply object to form?

19 MR. McKAY: That's not the only thing I can
20 object to, so no.

21 MR. MAYE: Well, I guess -- I guess we'll
22 have to next break, I'll -- I'll have to look into
23 this because it's my understanding you are limited
24 to form. I'll have to look into that further and we
25 can have a discussion about that.

1 BY MR. MAYE:

2 Q. So, ma'am, do you understand my question?

3 I'm asking you about United's policy. Does United

4 require you to inquire about whether the two

5 involved, the two passengers involved in a sexual

6 misconduct allegation, about their -- whether

7 they're related? Does United require that?

8 A. United requires the captain to ensure that

9 the policies and procedures required of the flight

10 attendants are followed and so in your hypothetical,

11 if I were the captain, my responsibility would be

12 to -- if I didn't know specifically what my flight

13 attendant prescribed policy and procedure was, I

14 would ask them to share it with me, and that's how

15 we would get to the first item on -- what I -- I

16 guess the closest thing we can imagine, either the

17 sexual -- suspected sexual misconduct or suspected

18 human trafficking checklist was and that would lead

19 us to asking some targeted questions, so that's how

20 we would get there.

21 Q. Okay. I guess I'll -- I'll try this again.

22 MR. McKAY: Asked and answered. Please,

23 Brian, move on.

24 MR. MAYE: I'm not going to move on.

25 MR. McKAY: That's your answer. She's not

1 going to give you your sound bite because it doesn't
2 comport with reality. So just move on. We -- we
3 can't sit here all day trying to get your sound bite
4 in because she's not going to agree to it. You do
5 this every deposition, and it really is a waste of
6 time and --

7 MR. MAYE: It's my deposition.

8 MR. McKAY: -- and harassing to the
9 deponent.

10 MR. MAYE: It's not harassing.

11 MR. McKAY: She is not a --

12 (Simultaneous cross-talk.)

13 MR. McKAY: She's not going to say what you
14 want her to say.

15 MR. MAYE: But I have a right to ask
16 questions, John.

17 MR. McKAY: You have a right to ask
18 questions. You have a right to receive the answers
19 and then you need to move on.

20 (Simultaneous cross-talk.)

21 MR. MAYE: I don't -- I don't have to move
22 on.

23 MR. McKAY: You cannot keep asking the same
24 question trying to get your sound bite that you're
25 never, ever, ever, ever going to get.

1 MR. MAYE: Thank you. It's noted. It's
2 noted for the record.

3 BY MR. MAYE:

4 Q. Ma'am, does United have a policy in its
5 operations manual --

6 MR. McKAY: You got a call from somebody
7 coming in.

8 BY MR. MAYE:

9 Q. Does United have in its operations manual a
10 protocol, a specific protocol, regarding responding
11 to suspected sexual misconduct?

12 A. You are referring -- you keep referring to
13 operations manual. Are you -- are you talking about
14 my FOM, the pilot's flight operations manual?

15 Q. Yes.

16 A. It does not.

17 Q. Okay. So there's nothing in United's
18 operations manual about the pilot having to inquire
19 about whether pass- -- passengers involved in
20 suspected human trafficking must be asked whether
21 they're related?

22 MR. McKAY: Objection to the form.
23 Objection --

24 (Simultaneous cross-talk.)

25 THE WITNESS: That's not accurate.

1 MR. MAYE: Okay. So it does.

2 (Certified Reporter interrupted for
clarification of the record.)

3 MR. McKAY: It's objection to the form.
4 Objection. Asked and answered. Thank you.

5 BY MR. MAYE:

6 Q. So are you saying there -- there is a
7 provision in the United's operations manual that
8 specifically directs pilots to inquire about the --
9 the family relationship between passengers involved
10 in -- in suspected sexual misconduct before the
11 pilot can take action?

12 A. I'm -- I'm trying to explain, sir, that
13 there's a pass-through in my manual, for lack of a
14 better word, that instructs me to ensure that the
15 flight attendants are acting in accordance with the
16 policies and procedures in their manual, all of
17 which are not incorporated in my flight operations
18 manual. However, if there is a -- an event or an
19 occurrence in flight and I don't have a reference
20 for what their policies and procedures are, what my
21 flight operations manual instructs me to do is call
22 them up, look at their manual, go through their
23 policies and procedures, ensure that they have been
24 followed, and in so doing, in this case, one of the
25 first things that would have happened and did not,

1 is that I would have directed my A flight attendant
2 to initiate nonthreatening conversation and try to
3 arrive at some of these answers to clarify the
4 situation.

5 Q. So you're relying on the United flight
6 attendant manual provision for your opinion that
7 the -- the flight attendants here -- or no. I'm
8 sorry. Strike that.

9 So you're relying on a United flight
10 attendant manual provision for your opinion that
11 Captain Shupe should have asked Chelsie Bright, the
12 A flight attendant, for her flight attendant manual
13 so you could -- strike that.

14 So your opinion is that Captain Shupe
15 should have ultimately, through the flight attendant
16 or through dispatch, inquired about whether
17 Mr. DelVecchia and A.D. were related before they
18 were moved; correct?

19 A. I certainly do hold that opinion, not --

20 Q. Okay.

21 A. -- not one or the other, both. I mean,
22 those -- those are both very --

23 Q. Okay.

24 A. -- easy --

25 Q. Okay.

1 A. -- things to do. And I'm not relying upon
2 my United, I'm relying upon Frontier's own policies
3 and procedures. It really has nothing to do with
4 United.

5 Q. So -- so is your opinion based solely on
6 your interpretation of Frontier's policies?

7 A. Frontier's own policies and procedures is
8 what I was tasked to review to ensure that they were
9 followed. I will tell you in fairness that in my
10 opinion, it's consistent with what I would have
11 done --

12 Q. Okay.

13 A. -- had I been PIC on this flight --

14 Q. Okay.

15 A. -- as United captain in the absence of my
16 own for my policies and procedures because there's
17 no other way for me to ensure that my flight
18 attendant are, in fact, following theirs --

19 Q. Okay.

20 A. -- other than to go through it with them.

21 Q. Okay. So if you were the captain on a
22 flight -- bless you.

23 A. Thank you.

24 Q. If you were a captain on a flight on
25 which -- on which a flight attendant observed sexual

1 misconduct -- in the mind of the flight attendant,
2 the flight attendant observed sexual misconduct, you
3 would respond by having the flight attendant ask the
4 passengers involved whether or not they were related
5 because the United flight attendant manual directs
6 that flight attendants ask about whether the
7 passengers involved in sexual misconduct are
8 related?

9 MR. McKAY: Objection to the form.
10 Objection. Assumes facts not in evidence. And
11 argumentative.

12 THE WITNESS: No, sir. That's not what I
13 testified to.

14 BY MR. MAYE:

15 Q. What -- what protocol at United then
16 supports your testimony that you would ask the
17 flight attendant to inquire about the passengers
18 familial relatedness?

19 A. Sir, I never testified that there was a
20 protocol at United that I would ask that. There's a
21 protocol at Frontier, the airline --

22 Q. So there's -- so there's?

23 A. -- in which was -- please allow me to
24 finish. What I'm testifying to is that the pilot in
25 command at X airline, mine, Frontier's, American's,

1 whoever, is responsible to ensure that what is in
2 the flight attendant manual with respect to their
3 policies and procedures are followed before I take
4 action and that I gather all the information I'm
5 capable of gathering before I make a decision about
6 how to --

7 Q. I understand. I understand.

8 MR. McKAY: Whoa, whoa, whoa. Stop,
9 please, Brian. You're not allow- --

10 MR. MAYE: John --

11 MR. McKAY: -- to talk --

12 (Simultaneous cross-talk.)

13 MR. MAYE: John, I -- we're about to call
14 the Judge here because --

15 MR. McKAY: That's fine.

16 MR. MAYE: She is not being responsive.
17 She's -- this is dragging on --

18 MR. McKAY: No, no. She's --

19 (Simultaneous cross-talk.)

20 MR. McKAY: -- give you your sound bite.

21 MR. MAYE: She's avoiding my questions and
22 we're -- I'll not be finished by seven hours, and
23 I'm not going to let it continue.

24 MR. McKAY: Let me -- let me refer you to
25 a -- a particular standing order that says treat the

1 witness with respect --

2 MR. MAYE: Okay.

3 MR. McKAY: Counsel must not interrupt the
4 witness who is answering the question by asking a
5 question --

6 MR. MAYE: I didn't -- I didn't --

7 MR. McKAY: Pass the baton and the
8 microphone to the witness. Let the witness
9 finish --

10 MR. MAYE: Okay. Noted.

11 MR. McKAY: The questioning attorney --

12 MR. MAYE: Noted, John. Please stop.

13 MR. McKAY: -- the attorney for the
14 witness --

15 MR. MAYE: It's noted, John. Please stop.

16 MR. McKAY: -- that the witness may have to
17 complete his or her answer.

18 MR. MAYE: John, please stop. It's noted.

19 MR. McKAY: Please stop talking when I'm
20 talking.

21 MR. MAYE: You can send me the revision.
22 You can email it to me, okay?

23 BY MR. MAYE:

24 Q. Ma'am --

25 MR. McKAY: It's common knowledge. It's

1 professionalism.

2 MR. MAYE: I did not cut her off.

3 MR. McKAY: Yes, you did, many, many times.

4 MR. MAYE: No, I did not.

5 MR. McKAY: She asked you to allow her to
6 finish the question -- answer.

7 MR. MAYE: Please, John. Please.

8 MR. McKAY: Please, Brian.

9 MR. MAYE: Can I ask my questions, please?

10 BY MR. MAYE:

11 Q. Okay. Now, ma'am, is there a specific
12 protocol in the United flight attendant manual that
13 requires you to inquire about whether two passengers
14 involved in a sexual misconduct -- involved in a
15 suspected sexual misconduct, is there a provision in
16 the flight attendant manual that requires you to
17 direct the flight attendant to inquire about whether
18 the two involved are related?

19 A. Sir, I'm not here to testify to what's in
20 my proprietary United Airlines materials. I'm here
21 to testify about what's in Frontier's manuals and
22 that's what I've done.

23 MR. McKAY: Answered. Move on.

24 BY MR. MAYE:

25 Q. So are your opinions in your report and

1 your opinions here today based solely on your
2 interpretation of Frontier's policies and procedures
3 and your review of the facts in this case?

4 A. Could you ask that again please or have the
5 court reporter read it back.

6 MR. MAYE: Please read it back, Jaimie.

7 (Record read.)

8 THE WITNESS: Yes. In combination with my
9 extensive experience as operating as a pilot in
10 command.

11 BY MR. MAYE:

12 Q. Are your opinions based at all on the
13 policies and procedures at United Airlines?

14 A. No.

15 Q. Okay. Are your opinions in your report, or
16 your opinions here today in this deposition, based
17 on any FAA regulations?

18 MR. McKAY: Objection to the form.

19 BY MR. MAYE:

20 Q. Any specific FAA regulations?

21 A. I mean, I guess we could go through each
22 and every opinion and conclusion and see if there's
23 a -- a tie into an FAR. Is that -- is that what
24 you're asking?

25 Q. No. I'm asking if your opinion that

1 Captain Shupe -- that Captain Shupe should have
2 required the flight attendant, the A flight
3 attendant, to inquire about whether Mr. DelVecchia
4 and A.D. were -- were related that -- that specific
5 opinion, is that based on a specific industry
6 standard or a specific FAA regulation?

7 MR. McKAY: Objection to the form.

8 THE WITNESS: I'll give you the fairest
9 answer I think I can. There's an -- an overarching
10 FAR that says the pilot in command is the final
11 authority for the command and conduct of the flight
12 as well as the safety and security of all of the
13 passengers under his or her charge. So it's a
14 pretty large umbrella.

15 BY MR. MAYE:

16 Q. Okay. So -- so you're -- there's no
17 specific regulation or industry standard, but you
18 believe that there's a -- a general regulation,
19 overarching regulation, that supports your opinions
20 regarding Captain Shupe inquiring into the -- the
21 relationship between A.D. and Mr. DelVecchia?

22 A. I agree with everything except the last
23 half of your sentence and that would be restated as
24 Captain Shupe insuring that the flight attendants
25 under his charge followed their policies and

1 procedures before he made a decision as -- as to
2 what his action was going to be.

3 Q. Is there a Frontier policy, a specific
4 policy, that requires a flight attendant to inquire
5 into whether -- well, strike that.

6 Is there a specific Frontier policy
7 requiring the captain to inquire into whether two
8 passengers involved in suspected sexual misconduct
9 are related?

10 A. I don't have an -- an answer different than
11 the one I've given you for the last four times, sir.
12 The captain has to ensure there is a specific --
13 there are two specific Frontier policies, one
14 references human trafficking, one references
15 sexual -- suspected sexual misconduct. And the
16 captain is required to make sure that the flight
17 attendant follows either/or both of those because
18 they are under his charge and before an action is
19 taken, those procedures are -- they have been
20 trained and they should be followed.

21 Q. Where in the two policies that you've
22 referenced, the sexual misconduct policy,
23 Frontier's, and Frontier's human trafficking
24 policy -- or strike that.

25 Are you testifying that Frontier's sexual

1 misconduct policy dictates that before a victim is
2 moved away from the perpetrator following a
3 suspected sexual misconduct, that Frontier flight
4 attendant must ask the two passengers involved
5 whether they are related?

6 MR. McKAY: Objection to the form of the
7 question.

8 THE WITNESS: No, sir. My testimony is
9 that -- and -- and to be clear, we're not sure which
10 policy, quote/unquote, the flight attendants were
11 actually following, if any. It appears to be some
12 strange hybrid or amalgam of -- of two different
13 policies or they got to pick and choose which parts
14 they wanted to pay attention to. So I don't -- I
15 don't really know how to answer your question
16 because we -- we are never afforded the opportunity
17 of the flight attendants saying which policy or
18 procedure they were actually attempting to follow.
19 They're outlined specifically in my report with --
20 with specificity and, quite frankly, neither policy
21 or procedure was followed.

22 BY MR. MAYE:

23 Q. Where in Frontier's policies does it say
24 that if an adult is touching a child in an
25 inappropriate fashion or if an adult is suspected of

1 committing sexual misconduct against a child that a
2 flight attendant should not take action until after
3 the flight attendant establishes whether the adult
4 and child involved are related? Where -- where does
5 it say that in the Frontier manual?

6 MR. McKAY: Objection --

7 THE WITNESS: There is no reference to
8 adult or child in a Frontier manual.

9 BY MR. MAYE:

10 Q. Where in Frontier's policies, manuals,
11 protocols, does it say that if a passenger is
12 observed committing sexual misconduct against
13 another passenger that the flight attendant cannot
14 act until that flight attendant inquires about
15 whether the two passengers involved are related?

16 MR. McKAY: Objection to the form.

17 THE WITNESS: Sir, I would just refer you
18 to Frontier's actual policy regarding sexual
19 misconduct.

20 BY MR. MAYE:

21 Q. Okay. Let's go to that.

22 A. Which I think might help us move along.

23 Q. Sure.

24 So starting on page -- the bottom of
25 page 7, going to page 8, you include the substance

1 of Frontier's policy regarding responding to sexual
2 misconduct, and where --

3 Do you see that, ma'am?

4 A. I do.

5 Q. Where in here does it say that a flight
6 attendant must inquire about whether two passengers
7 involved in a suspected sexual misconduct are
8 related before the flight attendant moves victim?

9 A. Well, in fairness, sir, you're jumping to
10 the middle -- once again, my testimony would be that
11 I -- I don't have any evidence that this is the
12 protocol that was actually being followed or -- or
13 that's what Chelsie said she was going to -- to do
14 or that the Captain -- that Captain Shupe instructed
15 her to do, because the way that this actually begins
16 is that sexual misconduct is reported to a flight
17 attendant. That's -- that's Frontier's policy, that
18 sexual misconduct by the victim is reported to a
19 flight attendant. I -- I don't see anywhere in this
20 policy that it -- it says that the flight attendant
21 gets to declare sexual misconduct on behalf of a
22 victim.

23 Q. Okay. Thank you for that. I -- I'll -- I
24 guess I'll rephrase the question.

25 Do you see anywhere in Frontier's sexual

1 misconduct policy -- I'm not referring -- I'm not
2 talking about the facts of this case, ma'am, okay.
3 I'm talking about this policy.

4 Does this policy anywhere state that after
5 sexual misconduct is suspected that a flight
6 attendant is required to inquire about whether the
7 passengers involved were related before moving the
8 victim away from the perpetrator?

9 MR. McKAY: Objection to the form of the
10 question. Argumentative.

11 THE WITNESS: Well, you just misstated the
12 policy, sir, because nowhere in the policy does it
13 say that sexual misconduct is suspected. So I can't
14 answer the question as you phrased it.

15 BY MR. MAYE:

16 Q. Okay. We'll get to that in a second.
17 I'll -- I'll ask it this way.

18 If a passenger reports that sexual
19 misconduct has been committed against that passenger
20 by the passenger seated next to that passenger,
21 where in this policy does it say that the flight
22 attendant must inquire about whether the two
23 passengers involved were related before -- before
24 the flight attendant moves the victim away from the
25 perpetrator?

1 A. So the beginning of the hypothetical is
2 that the sexual misconduct is actually reported to a
3 flight attendant by the victim; do I have that
4 correct?

5 Q. That's correct.

6 A. It -- if that is the way, then the
7 procedure and protocol does not require that if the
8 sexual misconduct is reported by the victim.

9 Q. What if flight attendant learns that the
10 two involved were related, does the flight attendant
11 under this policy still have an obligation to
12 immediately move the affected passenger?

13 MR. MCKAY: Objection to the form.

14 And may I ask, is this still connected to
15 your hypothetical where the victim has reported it
16 to the flight attendant?

17 MR. MAYE: Yes.

18 MR. MCKAY: Okay.

19 THE WITNESS: Yeah. I'm -- I -- could you
20 restate that, please?

21 MR. MAYE: Sure.

22 THE WITNESS: I'm -- I'm a little lost.

23 BY MR. MAYE:

24 Q. Hypothetically, passenger reports sexual
25 misconduct has been committed and -- and you agree

1 that under this policy, the flight attendant has --
2 is -- is not required to inquire about whether the
3 two passengers are related; correct?

4 A. If it has been reported to the flight
5 attendant, I agree that that is not in the policy
6 anywhere that I -- that I can see.

7 Q. And under this policy, the flight attendant
8 must immediately --

9 (Certified Reporter interrupted for
 clarification of the record.)

10 BY MR. MAYE:

11 Q. I said the flight attendant must
12 immediately move the affected passenger; correct?

13 A. Yes. Once the incident has been reported
14 to the flight attendant, that is correct.

15 THE VIDEOGRAPHER: Counsel, this is the
16 videographer, Counsel Brian. Can we take a short
17 break to change the media?

18 MR. MAYE: Sure.

19 THE VIDEOGRAPHER: This marks the end of
20 media No. 1. The time is 12:08 PM. We're off the
21 record.

22 (Recess at 10:08 a.m. to 10:17 a.m.)

23 THE VIDEOGRAPHER: This marks the beginning
24 of media No. 2. The time is 12:17 PM. We're back
25 on the record.

1 MR. MAYE: Jaimie, can you read the last
2 question?

3 (Record read.)

4 BY MR. MAYE:

5 Q. Okay. So the same hypothetical, but this
6 time, the flight attendant is aware that the two
7 involved are related. Under this policy, what is
8 required in terms of -- or strike that.

9 Does the information that the two involved
10 are related change or impact the obligation of the
11 flight attendant regarding responding to the
12 reported sexual misconduct?

13 A. Just for clarification and you just said
14 responding to the reported sexual misconduct, I'm
15 just clarifying that it has been reported. Does the
16 information that they're related change the flight
17 attendant's obligation, my answer is no.

18 Q. Okay. While you've been a captain at
19 United, have you ever encountered a scenario or
20 situation similar to what we have in this case in
21 which a flight attendant reports perceived sexual
22 misconduct, perceived inappropriate touching,
23 followed by a second flight -- flight attendant
24 reporting that an adult had -- same -- same adult
25 had his hand on the child's crotch.

1 Have you encountered that situation at
2 United?

3 A. No.

4 Q. There -- excuse me. So in this case you're
5 opining that -- well, strike that.

6 If while at United a flight attendant
7 reported observing an adult stroking the face of a
8 child for an extended period of time, which made the
9 flight attendant very uncomfortable and then a
10 second flight attendant observed that same adult
11 with his -- his or her hand on the child's crotch,
12 and you ordered that the child be separated after
13 conducting your investigation, had you learned that
14 the adult and the child were related, would you then
15 return the child back with the parent once you
16 learned that the child and the adult were related?

17 A. If -- if we're going to do this, then we're
18 going have to take the abject hypothetical one --
19 one stage at a time because you're assuming that --
20 that I would have ordered them separated and -- and
21 all of these assumptions in this hypothetical are
22 made, so I mean I'm -- I'm --

23 Q. Okay. No. No. No. No. We'll go step by
24 step.

25 So you're the captain and you learned from

1 a flight attendant that adult is stroking the face
2 of a child in an inappropriate manner that's making
3 the flight attendant very uncomfortable.

4 A. Okay. Well, that's kind of where we have
5 to stop if --

6 Q. Right. Sure, sure.

7 A. -- we're going to do this step by step.

8 Okay. So --

9 Q. And what -- what is your response to that?

10 A. So I -- I haven't really, quote/unquote,
11 learned anything. It's been reported to me by one
12 of my flight attendants that he or she is
13 uncomfortable and has witnessed facial touching,
14 stroking, however we are characterizing the -- the
15 physical act from an adult to a child, so that's --
16 that's kind of where we're stopping. So I really
17 haven't learned anything other than what the flight
18 attendant has reported to me and observed has made
19 him or her uncomfortable. So stopping the
20 hypothetical at that point, I would feel a -- a
21 pressing need to gather more information to have it
22 described to me, even demonstrated on self, asked
23 how long it's been going on. What is it about, the
24 observed behavior that is making her, in this case,
25 feel uncomfortable; does the minor child appear to

1 be in distress or not receptive to the touching. I
2 mean, at that point, there's a bunch of things that
3 should have been asked and clarified.

4 Q. I'm -- I'm -- it's a hypothetical. I'm
5 asking how you respond. I'm not talking about our
6 case, okay?

7 A. I understand. And -- and, sir, I'm telling
8 you what I would have -- those are all questions I
9 would have asked at that point and --

10 Q. Okay.

11 A. -- and perhaps more.

12 Q. Okay. And at that point, you're satisfied
13 that the touching is concerning. It concerns you
14 and what do you do then?

15 A. Well, I guess -- and I'm really trying
16 here, Mr. Maye, the only way I would be convinced
17 that I was concerned is if I had answers to some of
18 those questions. If I didn't, and it was just the,
19 quote/unquote, gut feel or the -- the uncomfortable
20 nature of what the flight attendant was feeling, I
21 wouldn't be convinced. I don't have the luxury of
22 stepping back to observe it myself, unfortunately,
23 after 9/11, but -- so the only way I can drill down
24 and share the level of discomfort that my flight
25 attendant is feeling is to garner more information,

1 so if -- if I'm proceeding and you're going to --
2 and you're going to ask -- well, just that. I mean,
3 if I -- if I get answers to all those questions and
4 if the minor child looks uncomfortable, questions
5 have been asked of them in accordance with their
6 protocol and -- and the answers aren't adequate or
7 they're in line with raising more suspicions, then
8 I'll meet you where we are and we can go forward.

9 Q. Okay. So -- so you're satisfied. You --
10 you're --

11 A. Okay. So -- so now it looks uncomfortable,
12 although it's -- it's merely facial touching --

13 Q. Uh-huh.

14 A. -- at this juncture, but it seems off
15 and --

16 Q. Uh-huh.

17 A. -- responses to inquires back up the
18 hypothetical that maybe there's something amiss.

19 Q. Uh-huh.

20 A. I'll -- I'll go forward with you from that
21 point.

22 Q. Okay. And what do you do now?

23 A. So then now I ask the flight attendants
24 to -- in the absence of my own information in my
25 flight operations manual, I ask for their

1 specific -- I ask them which of the two possible
2 protocols, human trafficking or sexual misconduct,
3 they -- they believe this might fall into, and we
4 simultaneously review their policies and procedures
5 while asking my first officer to ACARS dispatch to
6 gather more information about these two.

7 I -- I certainly would have, as part of
8 ending at phase one, asked them some of these
9 nontargeted questions in accordance with the policy
10 and procedure. And if I didn't receive suitable
11 answers to those or there were still suspicions
12 after taking all those steps, then I would ask
13 dispatch to help me out, give me further information
14 about the passengers.

15 Q. So the -- so under this hypothetical, the
16 flight attendants tell you that they suspect sexual
17 misconduct. So they believe that's the policy that
18 applies?

19 A. Well, sir, again, we're back to -- there --
20 there is not a policy for suspected sexual
21 misconduct and that's where we're -- that's where
22 we're getting sideways with each other. There is a
23 policy for reported sexual misconduct. There's no
24 policy, however, for the flight attendants to
25 declare sexual misconduct on behalf of a victim.

1 Q. So I -- that's fine.

2 So -- so under the hypothetical, flight
3 attendant -- your -- the flight attendant tells you
4 that she observes the stroking of the face, makes
5 her very uncomfortable. You're satisfied that --
6 that her concerns are warranted. You become
7 concerned and your next step is to ask the flight
8 attendant at -- at United which of their policies
9 applies?

10 A. No, sir. That's not what I said.

11 Q. Okay. So I'm -- well, I thought you did.
12 You said you -- you -- you're not sure which policy
13 applies and --

14 A. I guess the problem is, we would have to
15 know which policy road, if you will, we were going
16 down when they first came up to the cockpit so we
17 would know how to proceed subsequent to that so I
18 could get some answers about whether or not -- if
19 it's suspected -- if the flight attendant believes
20 she may have witnessed some act of sexual
21 misconduct, under the policy since it's not then
22 reported to her, I would think the next logical step
23 would be to go back and ask the family, ask
24 specifically the minor child if he's doing okay.
25 If -- if he needs anything, if he's uncomfortable,

1 all of the -- it -- it's -- again, it's just amalgam
2 of these two protocols, but their training provides
3 some commonsense leeway for them to go back and
4 assess whether this minor child is really
5 uncomfortable or is really a victim, quote/unquote,
6 here. And the only way that I would proceed from
7 that point, personally, is if the flight attendant
8 went back, attempted to ask some questions, was shut
9 down by the adult or -- or they were nonresponsive,
10 if the child appeared to be distressed or -- at --
11 at that point, the only way the hypothetical would
12 continue to what I would do next is -- is if -- is
13 if that happened.

14 Q. So I just want to clarify. We're talking
15 about your role as a captain at United. That's the
16 hypothetical. The flight attendant communicates to
17 you that she or he has observed inappropriate
18 stroking of the face, makes the flight -- flight
19 attendant very uncomfortable, you, after asking some
20 questions, getting a good description, you share in
21 concerns?

22 MR. McKAY: Objection to the form.
23 You're -- you're inserting now elements of this case
24 that were not in it before.

25 MR. MAYE: Okay. That's noted.

1 BY MR. MAYE:

2 Q. And at that point, I asked what do you do
3 at that point and then -- and then you said, "Well,
4 you have to determine which policy applies."

5 Which policies at United could potentially
6 apply in that situation?

7 A. Sir, again, I'm not -- I'm not here to
8 testify as to proprietary information about my
9 employer. I'm -- I'm not going to go down the road
10 of which policies at United Airlines apply. I'm
11 going -- I -- and hopefully you can respect that,
12 but --

13 Q. I -- go ahead.

14 A. I have -- I have -- we're here to talk
15 about a Frontier Airlines flight and I have their
16 policies and procedures right here in front of me
17 and I've delineated in my report. And furthermore,
18 what I said was what I'd -- what I'd really need to
19 know from a professional flight attendant is if
20 she's concerned enough to come to my cockpit and
21 want to have a discussion about facial touching,
22 what I would ask is what her suspicions are. Does
23 she suspect this minor child is being trafficked.
24 Does she suspect that there is unwelcomed sexual
25 molestation. Quite frankly, it's very difficult for

1 me to read down this hypothetical road when I'm just
2 being told there was facial touching.

3 Q. So you earlier testified that your opinions
4 are based on your review of Frontier's policies,
5 your review of the facts in this case and your
6 experience as a pilot at United?

7 MR. McKAY: Objection to the form. She did
8 not say that specifically.

9 THE WITNESS: I believe I said, sir, my
10 experience in almost 30 years as a Part 121
11 commercial ATP and now captain, I -- I'm really not
12 here to testify as to the proprietary United
13 Airline's policy and procedures.

14 BY MR. MAYE:

15 Q. Are you here today testifying based
16 on -- or strike that.

17 Are your opinions in your report and your
18 opinions here today based on your review of
19 Frontier's policies and your review of the facts in
20 this case?

21 A. I have the exact same answer to the exact
22 same question that I gave you earlier and that is
23 yes.

24 Q. Okay.

25 A. In addition to my experience, training,

1 and -- and role that I still have currently as a --
2 a full-time airline pilot in command.

3 Q. And did you receive the -- the bulk of your
4 training at United Airlines?

5 A. Comprehensively over my 30-year career,
6 yes, the -- now, the bulk of my training has been --
7 I mean, it depends on which training we're referring
8 to. I mean, I have general aviation experience; I
9 have flight instructor experience; I -- if we're
10 going to lump training into one big umbrella, then
11 the answer would be yes.

12 Q. And has most of your experience as a 121
13 pilot been at United?

14 A. Yes.

15 Q. So your experience -- or strike that.

16 Has all of your experience as a captain
17 been at United?

18 A. As a captain, yes.

19 Q. Okay. So if your opinions in this report
20 and your opinions here today are, in part, based on
21 your experience at United, then it's an area that we
22 need to explore because you've testified that you're
23 basing your opinions on your experience at United
24 and so I'm asking --

25 MR. McKAY: Brian, I'm sorry, I'd have to

1 object. The witness has stated that she can't
2 testify to proprietary materials at United. Now,
3 you've placed us under a protective order for the
4 proprietary materials of Frontier. I'm sure you can
5 understand that she's not in a position to expose
6 specifics of proprietary materials from her
7 employer. That's what she's told you.

8 MR. MAYE: Okay. Noted.

9 BY MR. MAYE:

10 Q. So, ma'am, so I -- I've given you a
11 hypothetical about how you would respond as a United
12 pilot to a situation in which a -- a child passenger
13 is -- a flight attendant observes an adult passenger
14 inappropriately touching, stroking the face of -- of
15 a child that makes the flight attendant
16 uncomfortable. That's reported to you. And you
17 then are -- are convinced that it's -- it's
18 concerning enough to take the next steps to respond
19 and --

20 A. Well, I think we need to talk about in this
21 hypothetical how I become convinced of that.

22 Q. The -- the flight attendant describes to
23 you the -- the extent of the touching, the nature of
24 the touching, and the -- the flight attendant
25 explains to you that the touching is not the kind of

1 touching that is appropriate between a parent and a
2 child?

3 MR. McKAY: I'm sorry. I'm confused here.
4 Is there some way that you can tell all of us what
5 sexual face touching entails? I don't -- I'm trying
6 to imagine it and having a very difficult time.

7 BY MR. MAYE:

8 Q. Okay, ma'am. You can -- you can answer the
9 question.

10 A. Yeah. My answer would be that I will
11 listen to my flight attendant recount to me her
12 concerns. And, however, that's not going to be
13 sufficient for me -- just her -- as I've already
14 explained, I would direct her to go get more
15 information. Just -- I am not going to be going to
16 be convinced -- I don't care what --

17 Q. And --

18 A. May I finish? I don't -- it's not going to
19 be sufficient to listen to a flight attendant
20 recount that an adult is stroking the face of a
21 child for me to make the leap to sexual misconduct
22 if that is all that's being reported. What I have
23 testified to and I will -- I will reiterate is that
24 I would require her to go back and get more
25 information.

1 Q. And what information would you require her
2 to get?

3 A. Again, I would require her to go back and
4 attempt to initiate a nonthreatening conversation
5 between the two of them, ask if the minor child is
6 okay, needed anything, if it was -- everything in
7 accordance with their training, sir. You have all
8 the information. Ask if they're going on vacation.
9 Ask -- I mean, like make a direct observation by
10 interacting and speaking to the family to try and
11 validate whether her concerns were justified or not.

12 Q. I think -- I think again we're getting
13 confused. You said "their training." We're not
14 talking about Frontier. We're talking about United.

15 A. And I'm not going to speak to United's
16 training --

17 Q. But you just --

18 A. -- so your hypothetical --

19 Q. Okay. Let me -- I'll just try to make this
20 very -- very simple. The -- the -- the -- you're
21 the captain. A United flight attendant tells you,
22 I've observed which I believe is sexual misconduct
23 by an adult on a child. Flight attendant describes
24 it to you in a way that you're convinced that this
25 is concerning.

1 MR. MCKAY: And -- and again, I'm sorry,
2 Brian, but -- I'm sorry to interrupt, but can you
3 please tell us what is this concerning face
4 touching --

5 MR. MAYE: No, no, John. John, I didn't --
6 I changed -- I changed it back to -- just -- it's --
7 it's some sexual -- sexual physical contact that is
8 established --

9 MR. MCKAY: Okay. The law defines sexual
10 contact as involving genitals. You know that. I
11 know that. How are we -- how have we moved into
12 sexual face touching and what does it entail?

13 MR. MAYE: Okay. It's noted for the
14 record.

15 MR. MCKAY: No, it's -- it's making an
16 impossible and improper --

17 MR. MAYE: Okay.

18 MR. MCKAY: -- hypothetical.

19 MR. MAYE: Thanks. Okay. Noted for the
20 record.

21 BY MR. MAYE:

22 Q. So, ma'am, so an adult has touched a child
23 in a sexual nature. The flight attendant is
24 convinced it's sexual misconduct. The flight
25 attendant comes to you, explains to you what she saw

1 and --

2 A. And specifically what does she tell me?

3 Because I -- I can't answer your question without --

4 Q. Why not because the -- the hypothetical is
5 going to be that you are convinced that it is a
6 legitimate suspicion and then the question is, what
7 do you do next at United?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: I -- I can't answer without
10 telling you how I'm convinced or not. I can't tell
11 you what my next step would be until I know that I
12 have sufficient information to be convinced. You're
13 not even telling me what the -- the flight attendant
14 is reporting to have seen.

15 BY MR. MAYE:

16 Q. But, ma'am, the hypothetical establishes
17 that that has been met.

18 MR. McKAY: Objection to the form. That's
19 an improper hypothetical.

20 BY MR. MAYE:

21 Q. Okay. So for a hypothetical -- then let's
22 do this, a hypothetical, the -- the flight attendant
23 observes the adult rubbing the genitals of the
24 child. That's the hypothetical. The flight
25 attendant comes up to you and says, this is what I

1 saw. It's very concerning, and we want to separate
2 the child from the adult.

3 What -- what do you do as a United pilot in
4 that scenario?

5 A. I gather more information.

6 Q. And what -- what information are you
7 looking for?

8 A. Whether the conduct -- I mean, there's a --
9 there's a -- likely a seat mate. I go back and
10 instruct the flight attendant to ask the nonrelated,
11 nonaffecting adult in the seat if they've observed
12 any such behavior. I certainly go back and directly
13 ask the child if they are okay and/or if they would
14 like to be moved. I gather more information.

15 Q. Okay. So let me get this straight. As a
16 captain at United, if a flight attendant came up to
17 you and said, well, I just observed an adult rubbing
18 the genitals of a child and it's -- and I'm very
19 concerned about it and I -- and I recommend that we
20 move the child away from the adult, your -- your
21 testimony is that you would not immediately move the
22 child. You would ask the flight attendant to ask a
23 nearby passenger if they observed the touching.

24 Is that the first thing you would -- you
25 would do?

1 MR. McKAY: Objection. Asked and
2 answered --

3 THE WITNESS: Well, sir, the hypothetical
4 is so out of the realm of anything that would happen
5 at United or anywhere else because the first thing a
6 flight attendant anywhere, I -- I would assume,
7 would be trained to do if they observed direct
8 sexual misconduct and a -- a victim recoiling or --
9 from that would be to enlist some help, and they're
10 trained to do that without even coming to us first.
11 So you're -- you're -- I know what you're trying --
12 I know --

13 BY MR. MAYE:

14 Q. Ma'am --

15 A. I know what you're trying to get to, but
16 this is not the situation we had here. We had --

17 Q. That's fine.

18 A. We had a --

19 Q. That's fine.

20 A. -- situation in which a flight attendant
21 talked about an adult touching the face of a child.

22 Q. Okay.

23 A. So it's this weird amalgam of --

24 Q. Uh-huh.

25 A. -- let's assume facts not in evidence

1 and -- and I can't -- I will tell you that at
2 United, and I'm not going to reference specific
3 policies or procedures, but I will tell you that
4 they are -- my flight attendants, and I believe
5 industry wide-flight attendants, will intervene if
6 the safety or security of a passenger is in
7 immediate risk.

8 So the hypothetical falls flat just -- just
9 on -- on its face there. They're not going to take
10 the time to come up and talk to me or they're going
11 to intervene. If they think this child is in
12 jeopardy, they're not going to take the time to come
13 up and talk to me; they're going to intervene to try
14 to get some help. So it's just --

15 Q. Okay. So --

16 A. -- it's just not a good hypothetical.

17 Q. That's fine, but it's my hypothetical, but
18 I'll -- I'll ask you a question about what you just
19 said.

20 So at United, if a flight attendant
21 believes that a passenger is at risk, there's a
22 safety threat. The flight attendant can immediately
23 move that passenger away from the threat without
24 consulting the captain?

25 A. That -- that doesn't represent what I

1 testified to. What I said is the flight attendant
2 will -- will intervene, will ask the alleged victim
3 or what they perceive to be an alleged victim if
4 they're okay, if they need assistance, et cetera.
5 That would be the first step.

6 Q. Can a flight attendant at United -- can a
7 flight attendant at United immediately move a
8 passenger who reports being sexually violated
9 without the flight attendant consulting the captain
10 or conducting any further inquiry?

11 A. I'm -- I'm not going to testify to United
12 policies and procedures.

13 Q. Okay. So -- so essentially, I'm not able
14 to explore whether you're qualified to testify as an
15 expert because you refuse to testify about your
16 experience at United; is that fair?

17 MR. McKAY: Objection. That's -- that's
18 argument, Brian, and --

19 BY MR. MAYE:

20 Q. Is that fair, ma'am?

21 MR. McKAY: -- it's based on your
22 hypothetical. You asked the hypothetical bringing
23 in United Airline's procedures. She testified that
24 she's not at liberty to talk about them, so it's a
25 bad hypothetical. It's -- it's not a bad deponent.

1 BY MR. MAYE:

2 Q. So -- okay. So why can't -- okay. So --

3 MR. McKAY: Yeah. You can ask other
4 questions.

5 BY MR. MAYE:

6 Q. In this -- in this -- in this -- so we'll
7 go back to a hypothetical -- strike that.

8 Ma'am, you -- you just testified about what
9 United flight attendants can do in certain
10 situations.

11 Aren't -- aren't you revealing protocols
12 and procedures at United?

13 A. I testified, sir, in general terms to the
14 extent to which my professional flight attendants
15 are trained and entitled to act if they witness a
16 direct threat to a passenger's safety or a reported
17 threat and I'm not going to go in further detail
18 than that.

19 Q. So back to our hypothetical, you're --
20 you're the captain on a flight, a United flight, and
21 the flight attendant observes an adult rubbing the
22 genitals of a child, reports it to you, and you're
23 very concerned, and at that point, according to your
24 testimony, you would have the flight attendant go
25 back and ask questions to the two passengers

1 involved; is that your testimony?

2 A. No, it certainly isn't.

3 (Certified Reporter interrupted for
clarification of the record.)

4 MR. McKAY: Let's just say objection to the
5 form.

6 BY MR. MAYE:

7 Q. So what you would do at that point? You
8 observed -- excuse me -- you -- the flight attendant
9 told you that he or she observed an adult rubbing
10 the genitals of a child. I thought I heard you say
11 that you would direct the flight attendant to go
12 back and talk to the passenger seated near them, but
13 I guess I misheard you.

14 (Simultaneous cross-talk.)

15 MR. McKAY: Hypothetical -- I'm sorry. In
16 this hypothetical, is the child clothed? Is the --
17 is the adult, like, wiping off a spill from the lap
18 of the child? How old is the child? There's a
19 whole lot of issues here that aren't really covered
20 in your hypothetical.

21 BY MR. MAYE:

22 Q. The hypothetical is, it's an adult. The
23 child is 12 years old. The adult is rubbing the --
24 the genitals in a sexual manner.

25 MR. McKAY: Are they exposed?

1 MR. MAYE: They are not exposed. John, I
2 appreciate your input and I ask --

3 MR. McKAY: Thank you. I'm doing my job
4 here.

5 MR. MAYE: Please stop.

6 MR. McKAY: Doing my job?

7 BY MR. MAYE:

8 Q. The child is clothed and the flight
9 attendant is alarmed. The flight attendant
10 determines it's sexual in nature and the child is at
11 risk. The flight attendant comes up to you and
12 says -- explains everything and says, we recommend
13 moving the child away from this adult.

14 How do you respond to that as a captain at
15 United?

16 A. I -- I don't know, sir, because I've never
17 been in that circumstance. And once again, you're
18 mixing up -- we first started talking about the
19 flight attendant coming up and reporting just the
20 facial touching, at which point I said I would
21 gather more information. So now it's turned into --

22 Q. Yeah.

23 A. -- direct observation of rubbing of the
24 genitals to which I then responded that I don't
25 believe a flight attendant would -- if they really

1 felt a direct observation that this child was at
2 risk in real time and they observed this, would take
3 the time to come up to the cockpit without
4 intervening, so, again, I don't -- I can't get on
5 board with the -- the hypothetical.

6 Q. So you're refusing to answer a question
7 with a hypothetical?

8 MR. McKAY: No, she's not.

9 THE WITNESS: I'm not refusing to answer.
10 I'm telling you that it's not the way it would
11 happen in the real world.

12 BY MR. MAYE:

13 Q. Ma'am, listen. This is the hypothetical,
14 the flight attendant --

15 MR. McKAY: Please don't say listen.
16 That's --

17 (Simultaneous cross-talk.)

18 BY MR. MAYE:

19 Q. The flight attendant came up to you looking
20 for guidance. The flight attendant said this is
21 what I saw. We want to separate the child from the
22 adult.

23 What is your response to that?

24 A. I don't have a different response than I've
25 already given you, sir. It's not -- that --

1 that's -- that is not the way the -- the scenario
2 would develop onboard the flight.

3 Q. And --

4 (Simultaneous cross-talk.)

5 MR. McKAY: Do you want -- do you want
6 me to talk when you're asking a question? Would you
7 like me to talk through your questions?

8 MR. MAYE: We're going to have to take a
9 break because I think we have to talk to the Judge.

10 MR. McKAY: If you're going to talk through
11 my objections, then I think it's only fair that I
12 talk through your questions.

13 Is that how you want to conduct the
14 deposition?

15 MR. MAYE: Excuse me?

16 MR. McKAY: If you are going to talk over
17 my objections, then I think it's only fair that I
18 talk over your questions.

19 Is that how you want to do this?

20 MR. MAYE: I don't know what you're talking
21 about, John.

22 MR. McKAY: Yeah. Well, you keep talking
23 over me when I am trying to make an objection.

24 MR. MAYE: Wait --

25 MR. McKAY: And I have said --

1 (Simultaneous cross-talk.)

2 MR. MAYE: Go ahead, John.

3 (Simultaneous cross-talk.)

4 MR. McKAY: Professional --

5 MR. MAYE: If you have an objection, go
6 ahead, John. Go ahead with your objection.

7 MR. McKAY: Thank you.

8 MR. MAYE: That -- you're --

9 MR. McKAY: Thank you.

10 MR. MAYE: -- you're obstructing this
11 deposition.

12 MR. McKAY: No, I'm not. I'm asking you --

13 MR. MAYE: Go ahead. If you have an
14 objection, go ahead.

15 MR. McKAY: I'm asking you to stop talking
16 when I am making an objection --

17 MR. MAYE: I will do that. I will do that.

18 MR. McKAY: I have sent you two emails
19 asking you, as a matter of professionalism, that you
20 refrain from doing that in depositions because
21 you've done it repeatedly in depositions. And I'm
22 asking you to let me talk when I'm talking, to let
23 the deponent talk when she's answering your question
24 and to stop stepping on everybody because they're
25 not meeting your expectations. You get to ask

1 questions, and at end of your question, you pass the
2 mic --

3 MR. MAYE: That's noted.

4 MR. McKAY: -- to the deponent.

5 MR. MAYE: Noted.

6 MR. McKAY: -- and if the -- if the
7 attorney for the other side needs to make an
8 objection, the attorney for the other side is
9 allowed to make the objection. If you don't like --

10 MR. MAYE: It's noted.

11 MR. McKAY: -- the objection, you don't get
12 to just start chattering during the middle of it.
13 That's unprofessional.

14 MR. MAYE: Noted.

15 MR. McKAY: Thank you. Now, do you --

16 MR. MAYE: Do you have an objection?

17 MR. McKAY: -- want to take a break? Is
18 that what you're asking?

19 MR. MAYE: Pardon?

20 MR. McKAY: I thought you were asking for a
21 break. Are you --

22 MR. MAYE: No, I'll proceed. I -- I'm
23 considering contacting the Court because --

24 MR. McKAY: I think that would be a good
25 idea. There's a lot of --

1 (Simultaneous cross-talk.)

2 MR. MAYE: The witness is refusing to
3 answer questions.

4 MR. McKAY: No, she's not refusing.
5 She's --

6 MR. MAYE: John -- John, I thought you just
7 said --

8 (Simultaneous cross-talk.)

9 MR. McKAY: You're doing it again.

10 MR. MAYE: I thought you just said we
11 shouldn't be interrupting each other.

12 MR. McKAY: Yeah.

13 MR. MAYE: Now I'm talking and you're
14 interrupting me. I'll proceed with -- I'll proceed
15 with a question.

16 BY MR. MAYE:

17 Q. Ma'am, so back -- back to the hypothetical,
18 I'm not asking whether or not this is something that
19 you've seen before or -- what I'm asking is if this
20 is what you encountered as a pilot, as a captain at
21 United Airlines, a -- an adult is rubbing the
22 genitals in a sexual manner of -- of a 12-year-old
23 child, who is clothed, and the flight attendant is
24 alarmed, concerned that the child's unsafe, and the
25 flight attendant comes to you and says, I recommend

1 we move the child away from the adult, how do you
2 respond as the captain of that flight at United?

3 MR. McKAY: Objection to the form.

4 THE WITNESS: I respond by asking her
5 specifically what she observed, for how long,
6 whether the minor child appeared to be in distress,
7 if she's sure that perhaps something wasn't spilled
8 in the child's lap or if she misperceived what she
9 saw.

10 I -- I -- I then begin a series of targeted
11 questions to the flight attendant because I can't be
12 her eyes and ears. I can listen to what she
13 believes she observed.

14 But once again, you're not going to like
15 the answer, but if -- if -- if that's really what a
16 flight attendant believes he or she directly
17 observed and a minor 12-year-old child is -- is in
18 danger real time, I believe what I'm going to be
19 told is, we saw this. It was verified. We took
20 action, and they've already been separated.
21 That's -- that's the best I can do with your
22 hypothetical, sir.

23 BY MR. MAYE:

24 Q. Okay. So is there ever a situation that
25 you can envision where a -- strike that.

1 So, ma'am, I'm a little -- I don't really
2 understand just so you're -- are you -- are you
3 saying that you don't know how to respond to the
4 hypothetical or you have no -- not -- you don't have
5 enough experience to respond to that hypothetical or
6 you're simply just refusing to respond to my
7 hypothetical?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: I just gave you a response,
10 sir. I -- I gave you a response. You're not a
11 captain.

12 BY MR. MAYE:

13 Q. You did not.

14 A. Yes, I did, sir. I told you that what
15 would happen is not in accordance -- I mean, we
16 can -- we can do hypotheticals all day. We can talk
17 about engines departing the pylon and things that
18 won't happen.

19 What I told you, sir, is that in my best
20 effort, honestly, to respond to your hypothetical,
21 if a flight attendant came up, the first thing I
22 would ask my flight attendant is if you really
23 believe you observed that, what are you doing up
24 here and why didn't you separate them already.
25 What -- what -- why are we -- but are you sure,

1 first of all. Have we -- so, I mean --

2 Q. Okay. So that's --

3 A. -- I've really done the best I can do
4 to ...

5 Q. Okay. So it sounds like we're -- thank
6 you. I appreciate that. It sounds like we're
7 getting somewhere. It's -- it's taking a while.

8 MR. McKAY: Brian, please.

9 MR. MAYE: If --

10 (Simultaneous cross-talk.)

11 THE WITNESS: And the only response -- the
12 only -- the only reason I'm telling you this -- and
13 let's just be clear. This is -- this is only in
14 response to -- I -- I -- the flight attendant is
15 reporting that they directly witnessed an --

16 BY MR. MAYE:

17 Q. Right.

18 A. -- abject act of sexual molestation,
19 genital --

20 Q. Right.

21 A. -- touching, rubbing, a victim in
22 distress --

23 Q. Right. Yes.

24 A. -- that's the -- now, that's the new
25 hypothetical, and that's my answer to that --

1 Q. Okay. So --

2 A. -- and only that.

3 Q. Okay. So based on this hypothetical that I
4 gave, not -- not --

5 A. Which one? Because we've had like three.

6 Q. The -- the hypothetical that I last gave
7 and you responded that if that -- if the flight
8 attendant came up to you and explained that, your
9 response would be here, wait a second here, why
10 didn't you separate the child from the adult; is
11 that -- is that correct?

12 A. With -- with everything I just stated, if
13 there -- if I am being reported and -- and, again,
14 the hypothetical doesn't work because in the -- in
15 that case, what the flight attendant would have come
16 up to the cockpit and reported was a direct
17 observation of sexual molestation and they're
18 intervening and a victim in distress and them having
19 followed through with their procedures and protocol
20 after they verified what was happening -- and I
21 would be being informed at that point in your
22 hypothetical that this had occurred. They had done
23 what they're trained to do and separated and
24 followed their procedures and protocol and they were
25 simply coming to the cockpit to report to me what

1 had already happened. Please don't point your
2 finger at me.

3 Q. No, no, ma'am, I'm not pointing my finger
4 at you. I'm putting my finger straight up in the
5 air. And what I'm asking you, you just changed the
6 hypothetical there. You responded -- you responded
7 that based on the hypothetical that I gave, that the
8 flight attendant had not yet moved the child and you
9 said you would tell the flight attendant that you
10 were surprised the child had not been moved. So my
11 question is, under the -- under the hypothetical
12 that I gave, if the flight attendant came up to you,
13 told you everything we talked about and the child
14 had not been moved, would you, at that point, direct
15 the flight attendant to immediately move the child
16 away from the adult?

17 A. So what's missing from your hypothetical is
18 the fact that I'm supposed to rely only upon the
19 observation of the flight attendant. That was your
20 first hypothetical. And what I'm telling you is if
21 a professional flight attendant had not only
22 observed that behavior, but then intervened, asked
23 the alleged victim if this was, in fact, happening
24 and verified that there was an act of unwanted
25 sexual touching or molestation and then separated

1 the two, that's -- that is what I'm talking about.

2 Q. Okay. So if the flight attendant came up
3 to you and said I observed an adult rubbing the
4 genitals of a 12-year-old child, the child appears
5 to be in distress, I'm very alarmed and concerned
6 about this, and I recommend that we move the child
7 away from the adult and then you ask, well, have you
8 talked to any passengers near the two passengers to
9 verify that this happened and the flight attendant
10 said, no, I didn't, but I'm telling you that this is
11 what I saw and I'm very concerned about the child,
12 at that point, would you direct the flight attendant
13 to move the child away from the adult?

14 MR. MCKAY: Objection to the form.

15 THE WITNESS: I can't give you a better
16 answer than I -- every -- every time we go down this
17 hypothetical road, something changes a little bit
18 and I've already -- I've already told you that -- I
19 mean, first it was there's just an observation of
20 the rubbing, but the child didn't appear to be in
21 distress. Now in this latest hypothetical, the
22 child does appear to be in distress. And my best
23 answer is that a trained flight attendant, if -- if
24 a victim appears to be in distress, is -- is going
25 to act at that point and ask if they're okay and

1 need to be moved.

2 (Certified Reporter interrupted for
clarification of the record.)

3 THE WITNESS: Ask if they're okay and if
4 they would like to be moved.

5 BY MR. MAYE:

6 Q. And if the flight attendant did not do
7 that, if the flight attendant didn't ask the child
8 if the child was okay and didn't ask the child if
9 the child wanted to be moved and you became aware of
10 that, would you require the flight attendant to ask
11 those questions before deciding to move the child?

12 A. I would require to see the flight
13 attendant's protocol, go through it with him or her
14 and see if -- if all of the actions had been -- had
15 been taken in accordance with their policy and
16 procedure.

17 Q. Of United's policies and procedures?

18 A. I am not talking about United, sir.

19 Q. So you're -- you're not going to respond to
20 the hypothetical that I've given?

21 MR. MCKAY: Objection to the form.

22 THE WITNESS: I don't know any other way to
23 respond. It's -- it is fluid and abject and -- and
24 not in accordance with -- I've -- I've really have
25 done my best to try and respond, sir. I mean, I

1 think I've given you a lot of really good
2 information about what --

3 BY MR. MAYE:

4 Q. No, I -- I --

5 A. -- what a pilot in command would do when
6 something is reported to them, but they do not have
7 the luxury of actually witnessing how to interpret
8 what they're being told in the absence of -- I mean,
9 there -- there's so much more -- and quite honestly,
10 this abject hypothetical that we're talking about
11 is -- is -- has nothing to do with what we're here
12 to talk about.

13 Q. So if -- if a flight attendant came up to
14 you and said I -- I observed an adult rubbing the
15 genitals of a child and it's sexual in nature; I'm
16 very concerned, I'm worried, and I recommend -- and
17 I've -- and I've done nothing else; I haven't talked
18 to the child; I haven't talked to the adult, but I
19 have observed this closely; I've observed rubbing of
20 the genitals by the adult; it's alarming and I would
21 like to move the child, what is your response to
22 that --

23 MR. McKAY: Objection to the form.

24 BY MR. MAYE:

25 Q. -- as a United pilot?

1 MR. McKAY: Objection to the form.

2 THE WITNESS: Let's stop talking about as a
3 United pilot, because, again, this -- this is where
4 we're just going to be dead in the water.

5 Here's -- here's the problem, sir, for --
6 for a flight attendant to observe closely an adult
7 rubbing the genitals of a child infers that this
8 flight attendant would have to stand in the row
9 and -- and stand there for a period of time directly
10 observing this behavior and do nothing else -- stand
11 there long enough to believe they know what they've
12 seen and that it's gone on for some period of time
13 and do nothing else or not engage the alleged
14 perpetrator or alleged victim. That's why I'm
15 having a problem with this abject hypothetical,
16 because that's not in accordance with any flight
17 attendant's training.

18 BY MR. MAYE:

19 Q. Okay. So if -- if that's true then and you
20 learn that the flight attendant had not yet moved
21 the child, would you then direct the flight
22 attendant to move the child immediately?

23 MR. McKAY: Objection to the form.

24 THE WITNESS: If that's -- I'll do my best
25 here, once again. If that's actually what's being

1 reported, then quite honestly, I have to question
2 the flight attendant's judgment and lack of -- I
3 mean, if they really directly observed a -- a child
4 in distress and did nothing, but come up and report
5 it to me, then -- then I have to actually question
6 their judgment, including whether they're really --
7 they really saw what they think they saw. How long
8 did they stand there, what -- I mean, et cetera. I
9 mean, I -- I'm trying to be reasonable with you,
10 but --

11 BY MR. MAYE:

12 Q. Okay. So I understand. So -- so you're --
13 so you're testifying that at that point --

14 MR. McKAY: I'm sorry. You just cut her
15 off.

16 MR. MAYE: I did not cut her off, John.
17 She was done.

18 BY MR. MAYE:

19 Q. Ma'am, would you agree you were done?

20 A. You may continue. I don't -- go ahead.

21 Q. So are you testifying that at that point,
22 you would question the -- the competence of the
23 flight attendant or the -- you would question the
24 perception of the flight attendant and you would not
25 direct the flight attendant to move the child away

1 from the adult?

2 A. I would certainly have more questions for
3 the flight attendant with regard to what -- what
4 they perceived that they saw. And yeah, we would
5 have a discussion, a further discussion, about -- I
6 mean, depending on where we are in this
7 hypothetical.

8 Q. Okay.

9 A. As I said, how long they stood there, is
10 there another passenger in the road, did you get one
11 of your other colleagues or was this so imminent,
12 this threat to this minor child so imminent that you
13 should have intervened and didn't. I mean, there's
14 a whole bunch of different ways this hypothetical
15 could go. And -- and once again, sir, with all due
16 respect, I know you're doing your job, but this is
17 not what happened on this flight.

18 Q. And your response that you would question
19 the competence of the flight attendant and question
20 her -- her perception, is that based on your -- is
21 that because on United policy or is that based on
22 your overall experience as a pilot?

23 MR. McKAY: Objection to form.

24 THE WITNESS: Did you say United policy?
25 Is that --

1 BY MR. MAYE:

2 Q. Yes. Yeah.

3 A. Again, I'm -- I'm -- I don't know how many
4 more times I can say it, but I'm not going to
5 testify about United policies, so no, it's not. I
6 have had flight attendants in my charge for decades
7 now and I will tell you that sometimes they have
8 interactions with passengers that make them
9 emotional or -- or get them upset. Sometimes we
10 have to drill down on what really happened to start
11 an event and -- and where we really are with respect
12 to what has to happen next. And so it is my job as
13 captain to try and make sure that I objectively
14 gather all of the information I can, even if a
15 flight attendant is upset or disturbed by something,
16 because I don't have the luxury of stepping back
17 behind the door after 9/11. And so I -- I,
18 therefore, don't have luxury of just taking, at face
19 value, what may or may not have been observed or --
20 I have to gather more information.

21 Q. And how you explained you would respond to
22 the hypothetical, that's based on your personal
23 experience as a -- as a -- as a captain?

24 MR. McKAY: Objection to the form.

25 THE WITNESS: Well, the initial face

1 touching hypothetical --

2 BY MR. MAYE:

3 Q. No, no, no. I'm sorry. The -- the last --
4 the last hypothetical. The last -- the hypothetical
5 we're on where you -- the flight attendant came up
6 to you, told you about the -- the adult was rubbing
7 the genitals in a sexual nature. The flight
8 attendant was -- was concerned, went to you,
9 explained to you her concern. She wanted to
10 immediately separate the child and you -- and you
11 said, well, you would have to question the, you
12 know, the competence of the flight attendant because
13 the flight attendant should have separated the child
14 right away, that hypothetical.

15 MR. McKAY: Objection to the form.

16 BY MR. MAYE:

17 Q. What I'm asking is, is that response based
18 on your personal experience as a captain?

19 MR. McKAY: Objection to the form.

20 THE WITNESS: I mean, certainly, sir. All
21 of my responses to an extent covering what's in --
22 in my report to -- to the matter at hand, which
23 we're here to discuss, are peppered by my 30 years
24 of experience as an -- and 20 as a captain. So it's
25 hard to -- I don't break that experience out of and

1 separate that out of my testimony when I'm trying to
2 answer your questions. I -- I don't know how best
3 to answer that, but, I mean, I have seen -- I've
4 seen it all. Maybe not -- maybe not in your
5 hypothetical because, once again, I don't believe in
6 the real world it would go down the way your
7 hypothetical suggests, but yes. I can't break my
8 decades of experience as a captain out of the
9 judgment about what I might do in your hypothetical.

10 BY MR. MAYE:

11 Q. Are you aware of any FAA regulations or
12 guidelines or industry standards that dictate that
13 if a -- if an adult and child who are not -- I'm
14 sorry, if an adult and child are related, that no
15 action should be taken when -- strike that.

16 Are there any FAA regulations or industry
17 standards that dictate then that if an adult is
18 suspected of sexual misconduct and it's learned that
19 the -- strike that. Let me start again.

20 Are there any FAA guidelines or industry
21 standards that dictate that if an adult who is
22 suspected of committing sexual misconduct against
23 the child and it is learned that the adult and child
24 are related, that no action should be taken with
25 respect to the suspected sexual misconduct?

1 MR. MCKAY: Objection to the form.

2 THE WITNESS: That -- that's a lot. I
3 think I can -- I can make it easy because you
4 continue to refer to suspected sexual molestation
5 and there's -- the policies and procedures that are
6 in place, sir, are -- are with respect to actual
7 reported sexual misconduct. There is no policy or
8 procedure or FAA regulation if -- if you want to
9 extend the question to that point regarding
10 suspected sexual molestation. It's either reported
11 to a flight attendant, that -- that's what the
12 policy is.

13 BY MR. MAYE:

14 Q. I'm asking about FAA regulations and
15 industry standards.

16 Are there any FAA regulations or industry
17 standards that state that if an adult is touching a
18 child in an inappropriate fashion that the pilot
19 should not take action if the adult and child are
20 related?

21 MR. MCKAY: Objection to the form.

22 THE WITNESS: Once again, sir, the only
23 policies and procedures that are in place are for
24 reported sexual molestation or -- I misspoke.
25 Reported sexual misconduct.

1 MR. McKAY: Brian, do you have a lot more?
2 I'm just seeing that it's the lunch hour.

3 MR. MAYE: I do.

4 MR. McKAY: You do.

5 Should we take a break for lunch?

6 MR. MAYE: It's up to you guys. Jaimie,
7 and, Captain Norton, and Delron, do you guys need a
8 lunch break?

9 THE WITNESS: I'm -- I don't even know what
10 time it is.

11 THE VIDEOGRAPHER: Counsel, can we go off
12 the record?

13 MR. MAYE: Yes, please.

14 THE VIDEOGRAPHER: Going off the record.
15 The time is 1:22 PM. We're off the record.

16 (Luncheon recess was taken at 11:22 PM.)

17 (The deposition was suspended at
18 11:45 a.m.)

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1 I have read the foregoing deposition transcript and
by signing hereafter, approve same.

2

Dated _____ .

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(Signature of Deponent)

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1 DEPOSITION OFFICER'S CERTIFICATE

2 STATE OF CALIFORNIA)

) ss.

3 COUNTY OF CONTRA COSTA)

4 I, Jaimie Porter, hereby certify:

5 I am a duly qualified Certified Shorthand
6 Reporter, in the State of California, holder of
7 Certificate Number CSR 13751 issued by the Court
8 Reporters Board of California and which is in full
9 force and effect. (Bus. & Prof. § 8016)

10 I am not financially interested in this action
11 and am not a relative or employee of any attorney of
12 the parties, or of any of the parties. (Civ. Proc.
13 § 2025.320(a))

14 I am authorized to administer oaths or
15 affirmations pursuant to California Code of Civil
16 Procedure, Section 2093(b) and prior to being
17 examined, the deponent was first placed under oath
18 or affirmation by me. (Civ. Proc. §§ 2025.320,
19 2025.540(a))

20 I am the deposition officer that
21 stenographically recorded the testimony in the
22 foregoing deposition and the foregoing transcript is
23 a true record of the testimony given. (Civ. Proc. §
24 2025.540(a))

25 I have not, and shall not, offer or provide

1 any services or products to any party's attorney or
2 third party who is financing all or part of the
3 action without first offering same to all parties or
4 their attorneys attending the deposition and making
5 same available at the same time to all parties or
6 their attorneys. (Civ. Proc. § 2025.320(b))

7 I shall not provide any service or product
8 consisting of the deposition officer's notations or
9 comments regarding the demeanor of any witness,
10 attorney, or party present at the deposition to any
11 party or any party's attorney or third party who is
12 financing all or part of the action, nor shall I
13 collect any personal identifying information about
14 the witness as a service or product to be provided
15 to any party or third party who is financing all or
16 part of the action.

17 (Civ. Proc. § 2025.320(c))

18

Dated: _____

19

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25

Jaimie Porter

1 DEPOSITION OFFICER'S CERTIFICATE
(Civ. Proc. § 2025.520(e))

2 STATE OF CALIFORNIA)
3) ss.
4 COUNTY OF CONTRA COSTA)
5

6 I, Jaimie Porter, hereby certify:

7 I am the deposition officer that
8 stenographically recorded the testimony in the
9 foregoing deposition.

10 Written notice pursuant to Code of Civil
11 Procedure, Section 2025.520(a), having been sent,
12 the
13 deponent took the following action within the
14 allotted period with respect to the transcript of
15 the
16 deposition:

17 () In person, at the office of the
18 deposition officer, made the changes set forth on
19 the
20 original of the transcript. (The parties attending
21 the deposition have been notified of said changes.)

22 () Approved the transcript by signing it.

23 () Refused to approve the transcript by not
24 signing it.

25 () By means of a signed letter, made the
26 changes and approved or refused to approve the
27 transcript as set forth therein. (Said letter has
28 been attached to the original transcript and copies
29 been attached to the original transcript and copies

1
2 thereof mailed to all parties attending the
3
4 deposition.)
5
6 () Failed to approve the transcript within
7
8 the allotted time period.
9
10 Dated _____
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| A | | | |
|---|--|--|---|
| abject 86:18 115:18 119:23 120:10 121:15 | 94:25 additional 24:7 address 40:3 addressing 26:18,21 27:4,14 adequate 89:6 adequately 21:9 Adler 2:8 5:1 administer 130:14 Administration 34:5,25 adult 50:5 60:8,13 61:22 79:24,25 80:3,8 85:24,24 86:7,10,14 86:16 87:1,15 92:9 96:13 97:20 98:23 99:22 100:23 101:2 101:11,17,20 102:21 105:21 106:9,17,22,23 107:13 108:22 112:21 113:1 116:10 117:16 118:3,7,13 120:14 120:18,20 121:6 123:1 125:6 126:13 126:14,17,21,23 127:17,19 adults 51:6 advocate 36:11 AD's 10:22 affection 53:14 affirmation 130:18 affirmations | 130:15 afforded 79:16 age 10:22 13:15 17:16,17 17:22 44:18,23 agent 10:22,24 11:3,6,14 11:16 12:3,12,13,24 13:1,4,10,21 14:3 14:10,19,24,25 15:4 15:5,16,16 16:6,11 16:13,14,20 17:1,6 17:10,16,21 18:3,4 agents 11:12,20 12:7 13:14 14:4,4 15:24 16:1 agent's 12:18 19:1 agree 5:7 11:7,8 17:4,8,12 17:20 18:21,24 21:22 26:20 27:3,17 27:19,20 35:13,17 35:22 43:9 44:11,25 45:16 50:15 58:2 67:4 77:22 83:25 84:5 122:19 agreed 43:15 ahead 18:10 21:4 60:10 65:11 93:13 110:2,6 110:6,13,14 122:20 air 117:5 airborne 48:24 aircraft 8:21 11:23 12:8 16:23 48:24 airline 8:19 11:9 28:9 29:1 31:22 32:2,11,19 72:21,25 95:2 airlines | 1:6 2:7 4:21 6:23 7:1 9:5 13:2 14:17 28:20 30:7 32:23 63:20 75:20 76:13 93:10,15 95:4 112:21 Airline's 94:13 104:23 airplanes 43:22 al 1:3,6 4:21 alarmed 107:9 112:24 118:5 alarming 120:20 allegation 66:6 alleged 104:2,3 117:23 121:13,14 allotted 132:13 133:4 allow 72:23 73:9 75:5 allowed 17:18 111:9 allowing 10:23 17:22 alongside 22:13 25:23 alter 42:23 alternate 42:22,23 alternative 43:6,16 amalgam 79:12 92:1 102:23 American's 31:23 72:25 amiss 89:18 analysis 37:16 and/or |

| | | | |
|---|---|---|---|
| 59:25 101:13 announcement 38:19 44:20 45:2,5 45:18 46:25 announcements 44:8,14 47:4 answer 12:19 14:1,7,22 15:2 15:8,11,12 18:21 20:14,14,15 22:1,15 23:14 24:24 26:9 27:9 28:4,6,12 29:22,23,24 30:5 31:19 35:10,12 37:3 45:15 61:6,20 63:13 66:25 74:17 75:6 77:9 78:10 79:15 82:14 85:17 94:21 95:11 97:8,10 100:3 100:9 108:6,9 112:3 113:15 115:25 118:16,23 126:2,3 answered 15:17 35:11 56:16 66:22 69:4 75:23 102:2 answering 20:11 74:4 110:23 answers 10:14 45:22 46:7 67:18 70:3 88:17 89:3,6 90:11 91:18 appear 34:9 87:25 118:20,22 appearance 5:15 APPEARANCES 2:1 appeared 4:7 58:6 92:10 113:6 appears 9:22 29:1 44:21 79:11 118:4,24 Appendix 7:8 applicable | 4:1 applies 34:23 90:18 91:9,13 93:4 apply 15:3 93:6,10 appreciate 19:11 26:10 46:16,16 48:4 107:2 115:6 approaching 11:10 38:11 appropriate 97:1 approve 129:1 132:20,23 133:3 approved 27:18 35:14,24 36:5 36:7 132:19,23 area 8:16,20 95:21 argue 52:13,13 argument 19:18 104:18 argumentative 12:15 13:5,25 14:12 15:6,18 19:24 22:17 22:21 42:15 43:19 44:16 45:4 47:19 53:24 55:11 56:17 62:4,21 63:15 65:13 72:11 82:10 arrange 21:5 arrive 70:3 ascertain 9:5 10:22 13:15 17:16,21 59:13 asked 9:3,9 15:17 20:19 38:11 42:25 47:11 47:24 48:9 56:16 58:6,7 59:3,7,12 66:22 68:20 69:4 | 70:11 75:5 87:22 88:3,9 89:5 90:8 93:2 102:1 104:22 117:22 asking 12:25 13:18,19 19:22 28:13 29:6 33:5,15 33:21,23 35:21,21 37:1 39:14,23 45:23 46:7 48:16 51:6 56:13 61:18,20 62:11 65:10 66:3,19 67:23 74:4 76:24,25 88:5 90:5 92:19 95:24 109:6 110:12 110:15,19,22 111:18,20 112:18 112:19 113:4 117:5 125:17 127:14 asleep 38:14 39:2 42:10,21 43:3 assess 92:4 assigned 16:6 17:1 assignments 5:23 assist 9:25 10:3 24:8 36:10 assistance 104:4 assume 36:4 102:6,25 assumed 42:25 Assumes 13:22 65:6 72:10 assuming 47:2 86:19 assumption 15:1,21 16:17,21 47:7 assumptions 86:21 ATP | 94:11 attached 132:25,25 attempt 41:1 98:4 attempted 58:21,24 92:8 attempting 79:18 attendant 22:7,10,12,19 23:25 24:2 31:7,8 41:3 47:17 50:2 51:2 53:1,9,13 54:3,15 58:3 59:8,23 60:12 60:14 61:22,24,25 62:7,16,18 66:13 70:1,6,10,12,12,15 71:18,25 72:1,2,3,5 72:17 73:2 75:12,16 75:17 77:2,3 78:4 78:17 79:4 80:2,3 80:13,14 81:6,8,17 81:19,20 82:6,22,24 83:3,9,10,16 84:1,5 84:7,11,14 85:6,11 85:21,23 86:6,9,10 87:1,3,18 88:20,25 91:3,3,8,19 92:7,16 92:19 93:19 96:13 96:15,22,24 97:11 97:19 98:21,23 99:23,25 100:13,22 100:25 101:10,16 101:22 102:6,20 103:20,22 104:1,6,7 104:9 105:21,24 106:8,11 107:9,9,11 107:19,25 108:14 108:19,20 112:23 112:25 113:11,16 114:21,22 115:14 116:8,15 117:8,9,12 117:15,19,21 118:2 118:9,12,23 119:6,7 119:10 120:13 |
|---|---|---|---|

| | | | |
|---|--|---|--|
| 121:6,8,20,22 122:23,24,25 123:3 123:19 124:15 125:5,8,12,13 127:11 attendants 8:23 9:13 22:3,13 23:3 40:10 41:5 44:1 47:14 48:13 49:16,21 52:4,18,20 66:10 69:15 70:7 72:6 77:24 79:10,17 87:12 89:23 90:16 90:24 103:4,5 105:9 105:14 124:6 attendant's 30:25 62:24 63:2 85:17 119:13 121:17 122:2 attendant-pilot 23:6 attending 131:4 132:17 133:1 attention 44:20 47:4 79:14 attorney 2:3,9 5:16 74:11,13 111:7,8 130:11 131:1,10,11 attorneys 131:4,6 Audio 5:6 authentic 56:15 authority 64:8 77:11 authorized 130:14 available 131:5 AVENUE 2:3 aviation 6:18,19,24 18:7 25:1 25:19 34:5,21,25 | 55:23 95:8 avoiding 73:21 awake 41:17,20 aware 27:1,16 28:1,13 29:4 29:15 30:17 32:22 35:4 36:9 38:18,22 41:10 44:7,13 45:11 45:12,17 46:23,24 85:6 119:9 126:11 A.D 17:22 38:11,13,14,18 38:22 41:9 42:24 44:7,12,18 45:17 46:23 47:14 48:7,13 48:15,17,21,22 58:5 60:6 70:17 77:4,21 a.m 38:6,6 58:16,16 84:22,22 128:18 <hr/> B B 7:8 40:22 bachelor's 6:16 back 18:15 27:22 38:7 43:21 52:13 58:17 59:14 62:10 76:5,6 84:24 86:15 88:22 89:17 90:19 91:23 92:3,8 97:24 98:3 99:6 101:9,12 105:7 105:19,25 106:12 112:17,17 124:16 background 6:15 bad 104:25,25 based 25:15 37:16 44:14 47:2 50:16 51:11 56:11 58:2 61:6 | 71:5 76:1,12,16 77:5 94:4,15,18 95:20 104:21 116:3 117:7 123:20,21 124:22 125:17 basic 11:21 12:18,23 13:13 basing 95:23 basis 11:10 55:7,13 baton 74:7 beginning 5:15 47:20 83:1 84:23 begins 4:19 81:15 behalf 81:21 90:25 behavior 87:24 101:12 117:22 121:10 believe 7:7,8 12:3,4,16 13:19 14:9 15:12 16:13 22:22 25:12 39:18 44:5,8,11 46:15 54:9 55:19 56:14 58:23,25 59:3,11,14 60:24 61:4 77:18 90:3,17 94:9 98:22 103:4 107:25 113:18 114:23 121:11 126:5 believes 91:19 103:21 113:13 113:16 benchmark 30:3 benign 47:9 49:24 50:24 51:8,15 52:9,15,16 52:23 best 14:7 46:19 113:21 | 114:19 115:3 118:22 119:25 121:24 126:2 better 12:19 69:14 118:15 beverage 39:1 41:18 48:1,1,25 52:16 beverages 38:16,21 41:10,25 44:6,6,13 45:17 biased 37:1,4 big 45:13 62:22 95:10 bit 118:17 bite 67:1,3,24 73:20 bless 71:22 bmaye@amm-law.... 2:11 board 12:7 108:5 130:8 boarded 16:24 boarding 11:22 14:5 17:18 18:4 19:2 59:15 Bond 47:10,17 49:25 50:25 51:7,10 bottom 21:10 80:24 brain 45:21 break 7:16 8:13 15:20 23:20 58:10 65:22 84:17 109:9 111:17 111:21 125:25 126:7 128:5,8 Brian 2:9 5:17 20:5,6,9,19 33:18 45:20 57:20 |
|---|--|---|--|

| | | | |
|---|--|--|---|
| 63:17 64:18,21 66:23 73:9 75:8 84:16 95:25 99:2 104:18 115:8 128:1 brief 6:14 47:9 49:24 50:24 51:8,15 52:9 52:15,16,24 bright 44:21 70:11 Bright-Sakurada 50:3 51:3 54:16 Bright-Sakurada's 54:3 bringing 104:22 broad 15:22 27:8 63:8 broadly 14:18 15:1,25 40:3,7 broke 10:2 bulk 95:3,6 bunch 30:23 88:2 123:14 burn 13:10 Bus 130:9 bust 33:24 | 4:9 camera 5:3 Canada 34:22 capable 44:19 73:5 captain 1:12 4:8,20 6:7,22 8:19 9:14,21 28:23 29:2 40:5,18 50:3 51:3,25 52:18 58:20 58:21,24 59:18 60:5 60:11 61:21 64:4,5 64:8,11,12,24 66:8 66:11 70:11,14 71:15,21,24 77:1,1 77:20,24 78:7,12,16 81:14,14 85:18 86:25 92:15 94:11 95:16,18 98:21 101:16 103:24 104:9 105:20 107:14 112:20 113:2 114:11 124:13,23 125:18 125:24 126:8 128:7 care 9:4 97:16 career 6:25 22:14 95:5 carefully 19:4 carrier 28:10 carriers 34:24 35:2,5 case 4:23 5:21 7:4,19,22 7:25 8:8,11,17 9:1,8 9:11,21 23:17,19 24:23 25:8 36:14,19 37:22 40:5,18,23 51:12,16 64:16 69:24 76:3 82:2 85:20 86:4 87:24 | 88:6 92:23 94:5,20 116:15 cases 23:21,21 category 15:22 caused 53:24 certain 105:9 certainly 8:5 23:3 43:25 44:18 60:7 62:6,8 70:19 90:7 101:12 106:2 123:2 125:20 Certificate 130:1,7 132:1 Certified 4:6,12 38:3 69:2 84:9 106:3 119:2 130:5 certify 130:4 132:5 cetera 104:4 122:8 chain 64:9 challenge 55:7,13,16 challenging 54:2,7 change 5:22 84:17 85:10,16 changed 52:14 99:6,6 117:5 changes 32:25 118:17 132:16 132:18,23 characterization 51:14 characterize 51:6 56:18 characterizing 50:12 52:23 87:14 characters 5:21 charge | 40:2,8 52:3 77:13,25 78:18 124:6 charges 39:5 chart 14:21 15:23 chattering 111:12 checklist 66:18 Chelsie 50:2 51:2 59:4,8 70:11 81:13 Chicago 2:10 child 79:24 80:1,4,8 86:8 86:12,14,15,16 87:2 87:15,25 89:4 91:24 92:4,10 93:23 96:12 96:15 97:2,21 98:5 98:23 99:22 100:24 101:2,13,18,20,22 102:21 103:11 105:22 106:10,16 106:18,18,23 107:8 107:10,13 108:1,21 112:23 113:1,6,17 116:10 117:8,10,13 117:15 118:4,4,6,11 118:13,20,22 119:7 119:8,8,9,11 120:15 120:18,21 121:7,21 121:22 122:3,25 123:12 125:10,13 126:13,14,23,23 127:18,19 childhood 54:22 children 43:23 child's 60:13 61:23 85:25 86:11 112:24 113:8 choose 79:13 |
| C | | | |
| C 40:23 cabin 38:18 44:8,14 California 2:4 4:3,7 130:2,6,8 130:15 132:2 call 15:20 20:5,7,20,22 20:25 21:2,3,6 47:5 68:6 69:21 73:13 called | | | |

| | | | |
|--|---|--|--|
| circle 52:5 | colleagues 123:11 | 40:13,24 41:1,7,15 47:14,21 48:3,6,13 | concerns 62:25 63:3 88:13 91:6 92:21 97:12 98:11 |
| circumstance 107:17 | collect 131:13 | 48:14,17,20,23,25 49:16 52:9,16 | conclusion 76:22 |
| cite 18:8 | combination 76:8 | company 16:5,9,25 | conclusions 10:18 18:11,17,18 19:5,8 37:15 |
| Civ 130:12,18,23 131:6 131:17 132:1 | come 43:24 52:5 58:7 93:20 103:10,12 108:3 116:15 122:4 | comparatively 30:5 | conduct 33:19 40:1,7,10 52:19 77:11 101:8 109:13 |
| Civil 4:2,10,13 130:15 132:9 | comes 10:9 99:25 100:25 107:11 112:25 | compare 30:9 32:8,17,18,20 33:15 | conducting 86:13 104:10 |
| clarification 69:2 84:9 85:13 106:3 119:2 | coming 68:7 102:10 107:19 116:25 | compared 30:18 31:16 | conflicting 41:4 |
| clarified 88:3 | command 8:21,22 11:20 12:6,9 39:25 40:5,6 51:25 52:18 62:23 63:9 72:25 76:10 77:10 77:11 95:2 120:5 | competence 122:22 123:19 125:12 | confused 97:3 98:13 |
| clarify 16:19 48:3 70:3 92:14 | commencing 4:4 | complete 53:19 74:17 | connected 83:14 |
| clarifying 85:15 | comment 26:11 48:4 | completely 56:2 | connection 5:4 |
| clarity 10:13 | commentary 26:1 52:25 63:18 | complied 9:10 | consider 44:2 56:12 |
| Clark 2:9 | comments 131:9 | component 25:10 | considered 14:24 15:5,16 25:4 |
| clean 23:13 | commercial 8:21 11:9 25:2,17 94:11 | comport 67:2 | considering 111:23 |
| clear 45:14 57:3 79:9 115:13 | committed 82:19 83:25 | Comprehensively 95:5 | consistent 9:2 27:21 32:1,24 34:8 71:10 |
| Clearly 26:24 | committing 63:23 80:1,12 126:22 | comprised 7:9 | consisting 131:8 |
| closely 120:19 121:6 | common 74:25 | computer-based 28:22 | consulting 103:24 104:9 |
| closest 66:16 | commonsense 92:3 | conceive 54:20 | contact 99:7,10 |
| clothed 106:16 107:8 112:23 | communicated 40:12 | concern 125:9 | contacting 111:23 |
| cockpit 25:24 56:24 58:7 91:16 93:20 108:3 116:16,25 | communicates 92:16 | concerned 88:17 91:7 93:20 101:19 105:23 112:24 118:5,11 120:16 125:8 | contained 7:6,10,12 |
| Code 4:2,10,13 130:15 132:9 | communication | concerning 88:13 96:18 98:25 99:3 101:1 | content 10:6,8 35:23 36:4,6 |
| | | | context 34:13 41:14 47:20 |

| | | | |
|--|---|--|--|
| contextual 40:15 | 130:3 132:3 | danger 113:18 | 99:9 |
| continue 5:6 21:6,7 52:5 73:23 92:12 122:20 127:4 | couple 7:15 | data 58:22 | defining 33:12 |
| continuing 33:9 | course 34:18 36:7 40:14 42:16 61:17 | Dated 129:2 131:18 133:5 | definition 27:24 |
| CONTRA 130:3 132:3 | court 1:1 4:3,12,22 5:9,25 36:10 76:5 111:23 130:7 | day 4:4 11:11 13:15 21:18,20 25:25 67:3 114:16 | definitions 33:1 |
| contracted 16:21 | covered 18:13 106:19 | days 7:15 | delineated 19:4 93:17 |
| conversation 59:16 70:2 98:4 | covering 125:21 | dead 121:4 | Delron 2:13 5:10 128:7 |
| convinced 88:16,21 96:17,21 97:16 98:24 99:24 100:5,10,12 | create 9:23 16:2 | deadheading 43:22 | Delta's 31:23 |
| cooperation 52:10 | credible 43:11,16 | deal 8:24 | DelVecchia 1:3 4:21 48:22 58:5 60:6 70:17 77:3,21 |
| coordinator 8:13 | crew 9:5 23:3 40:25 48:23 | dealing 28:23 | DelVecchias 5:18 49:25 51:1,8,11 52:11 |
| copies 132:25,25 | cross-talk 20:10,13,17 21:1 46:2 54:8 67:12,20 68:24 73:12,19 106:14 108:17 109:4 110:1,3 112:1 112:8 115:10 | decades 124:6 126:8 | demeanor 131:9 |
| correct 10:25 11:1,4,6 19:13 19:14 22:7,8 25:21 34:8 37:19,22 45:9 70:18 83:4,5 84:3 84:12,14 116:11 | crotch 85:25 86:11 | decided 41:20 | demonstrated 87:22 |
| correction 5:20 | CSR 1:20 130:7 | deciding 119:11 | demonstrating 55:15 |
| correspondence 7:18 | current 6:21 | decision 41:21 63:11 64:15 73:5 78:1 | departing 114:17 |
| cost 38:17,21 41:10 44:6 44:13 45:17 46:23 46:24 48:1 | currently 95:1 | decisions 9:13 | departure 38:19 47:21 48:7,18 49:17 |
| COSTA 130:3 132:3 | customer 14:11,14,17,20,25 15:5,16,21,25 | decision-making 24:9 | depending 123:6 |
| counsel 5:14,24 18:6 26:4,8 74:3 84:15,16 128:11 | cut 75:2 122:14,16 | deck 9:14 | depends 5:3 95:7 |
| counsel's 21:25 | | declare 81:21 90:25 | deponent 67:9 104:25 110:23 111:4 129:5 130:17 132:12 |
| COUNTY | | deemed 54:12 | deposition 1:11 4:20,25 7:24 21:22 28:24 33:19 55:15 67:5,7 76:16 109:14 110:11 128:17 129:1 130:1 130:20,22 131:4,8 131:10 132:1,6,8,14 |
| | D | Defendant 2:7 | |
| | D 2:3 | defendants 1:7 4:9 5:17 | |
| | daily 11:10 | define 33:13 | |
| | | defines | |

| | | | |
|-----------------------|---------------------|---------------------|--------------------|
| 132:16,18 133:2 | 59:14 70:1 | division | effect |
| depositions | directly | 14:20 | 130:9 |
| 110:20,21 | 53:17 63:7 101:12 | DJA | effected |
| described | 113:16 115:15 | 5:21 | 35:19 |
| 53:14 56:2 87:22 | 121:9 122:3 | doing | effort |
| describes | directs | 33:3 46:16 57:2 | 53:19 56:4 114:20 |
| 96:22 98:23 | 64:1 69:8 72:5 | 69:24 91:24 107:3,6 | either |
| description | discern | 110:20 112:9 | 45:10 66:16 127:10 |
| 56:11 92:20 | 53:19 55:3 | 114:23 123:16 | either/or |
| descriptions | disclosed | door | 78:17 |
| 63:3 | 13:24 | 124:17 | element |
| Despite | discomfort | dragging | 25:4 |
| 47:8 49:23 50:24 | 88:24 | 73:17 | elements |
| detail | disconnect | drill | 92:23 |
| 105:17 | 51:23 | 88:23 124:10 | email |
| determinations | discovery | drink | 2:5,11 7:18 74:22 |
| 37:8,9 | 37:2 56:1 60:25 | 38:12 | emails |
| determine | discuss | drinks | 110:18 |
| 93:4 | 12:23 125:23 | 39:5 | emotional |
| determines | discussing | due | 124:9 |
| 107:10 | 63:4 | 123:15 | employed |
| develop | discussion | duly | 6:23 10:24 16:5,13 |
| 109:2 | 65:25 93:21 123:5,5 | 130:5 | 16:25 22:6 24:10 |
| developed | dispatch | duration | employee |
| 44:1 | 25:9,13 70:16 90:5 | 40:2 | 16:19,20 130:11 |
| dictate | 90:13 | duties | employees |
| 126:12,17,21 | dispatcher | 11:17 12:24 13:3 | 40:1,7 |
| dictates | 24:6,11,14,19,23 | 17:6,10 19:2 | employer |
| 79:1 | 25:1,3,4,18,20 | duty | 93:9 96:7 |
| different | 59:12 | 36:9,12 | employment |
| 31:19 63:14 78:10 | dispatchers | dynamic | 16:2 |
| 79:12 108:24 | 25:22 | 64:10 | encounter |
| 123:14 | dispatching | | 47:16 |
| differently | 25:17 | E | encountered |
| 50:14 | disruptive | earlier | 85:19 86:1 112:20 |
| difficult | 53:23 | 47:11 48:9 94:3,22 | encounters |
| 93:25 97:6 | distress | ears | 47:9 49:24 50:25 |
| direct | 88:1 113:6 115:22 | 113:12 | 51:7,10,15 52:23 |
| 16:19 62:17 75:17 | 116:18 118:5,21,22 | easier | engage |
| 97:14 98:9 102:7 | 118:24 122:4 | 59:5 | 121:13 |
| 105:16 106:11 | distressed | easy | engineering |
| 107:23 108:1 | 92:10 | 70:24 127:3 | 6:17 |
| 116:16 117:14 | district | educate | engines |
| 118:12 121:21 | 1:1,2 4:22,22 16:20 | 14:5 | 114:17 |
| 122:25 | disturbed | educational | enlist |
| directed | 124:15 | 6:15 | 102:9 |

| | | | |
|--|--|---|--|
| ensure 66:8 69:14,23 71:8 71:17 73:1 78:12 | examined 4:16 130:17 | 124:21 125:9 | 58:22 59:10 71:18 117:18,23 |
| entail 99:12 | exchange 47:12 | explains 96:25 99:25 107:12 | factors 55:22,22 |
| entails 97:5 | exclusively 23:6,16 24:17,19,20 | explanation 41:2,6 42:20 43:24 | facts 13:22 36:14,19 37:7 37:8 50:15,16 58:23 65:6 72:10 76:3 82:2 94:5,19 102:25 |
| entire 28:22 29:19,21,23 47:9 49:24 54:22 | excuse 26:22 86:4 106:8 109:15 | explore 95:22 104:14 | failed 10:22 17:16,21 22:4 24:7 26:16 49:21 59:20 133:3 |
| entirely 50:24 | exercise 9:4 | expose 96:5 | fair 15:15 25:6 104:16,20 109:11,17 |
| entitled 105:15 | Exhibit 3:11 9:17,18 | exposed 106:25 107:1 | fairest 77:8 |
| envision 113:25 | EXHIBITS 3:9 | extend 127:9 | fairly 42:19 |
| essentially 104:13 | exists 25:7 | extended 20:23 86:8 | fairness 71:9 81:9 |
| establish 48:2,6,12 49:15 | exit 10:23 13:16 17:15,18 17:22 52:11 | extends 40:6 | faith 56:25 |
| established 99:8 | expectations 110:25 | extensive 22:13 76:9 | fall 15:24 90:3 |
| establishes 34:4 80:3 100:16 | experience 55:14 76:9 94:6,10 94:25 95:8,9,12,15 95:16,21,23 104:16 114:5 123:22 124:23 125:18,24 125:25 126:8 | extent 96:23 105:14 125:21 | fallen 38:13 |
| et 1:3,6 4:21 104:4 122:8 | experiences 47:3 | eyes 113:12 | falls 103:8 |
| European 34:20 | expert 3:11 6:24 9:18 11:16 13:6,20,24,24 14:10 23:1,5,7,12,16,24 24:18 25:9,10,13 31:8 33:14 36:10 55:22,23 104:15 | FAA 26:23 27:18 35:14,25 36:6 76:17,20 77:6 126:11,16,20 127:8 127:14,16 | familial 72:18 |
| event 69:18 124:11 | expertise 8:16,20 11:5 | FAA-approved 35:17 | familiar 14:16 |
| events 64:10,10 | experts 12:3 | face 17:14 54:11,12,22,23 56:8,9 60:13 61:3 61:23 86:7 87:1 91:4 92:18 96:14 97:5,20 99:3,12 102:21 103:9 124:18,25 | families 43:22 |
| everybody 110:24 | explain 69:12 | facial 54:19 61:1,16 63:4 87:13 89:12 93:21 94:2 107:20 | family 40:11,13,25 48:21 49:22 64:15 69:9 91:23 98:10 |
| evidence 13:23 37:4 56:1 61:16 65:7 72:10 81:11 102:25 | explained 21:10 97:14 116:8 | fact 38:17 39:4 52:8 | far 45:21 76:23 77:10 |
| exact 94:21,21 | | | fashion 79:25 127:18 |
| exactly 15:23 17:25 48:19 53:22 | | | father 38:13,24,25 39:2 |
| Examination 3:3 6:5 | | | |

| | | | |
|---|--|---|---|
| 41:16,19 42:9,20 43:1,2 53:14,25 54:10,11 fault 52:14 favor 36:15,21 federal 4:3,11 18:7 25:1,19 34:5,8,25 feel 31:24 87:20,25 88:19 feeling 88:20,25 felt 59:10 108:1 file 7:3,6,9,12 8:1 filed 4:22 final 77:10 financially 5:12 130:10 financing 131:2,12,15 find 16:1 23:20 38:2 43:10,16 58:22 62:7 fine 6:10 10:16 61:18 73:15 91:1 102:17 102:19 103:17 finger 117:2,3,4 finish 72:24 74:9 75:6 97:18 finished 73:22 first 23:11 28:16 45:10 50:4 51:4 64:3 66:15 69:25 90:5 91:16 101:24 102:5 102:10 104:5 | 107:18 114:21 115:1 117:20 118:19 130:17 131:3 five-minute 58:10 flat 103:8 flight 8:23 9:13,14 16:6,16 17:2 22:3,6,10,12 22:13,19 23:3,3,5 23:24 24:2,6 25:2,3 30:24,25 31:6,7,15 32:6 40:3,10,14 41:3,5 44:1 45:10 45:11 47:4,14,17 48:13 49:16,20 50:2 51:2 52:4,17,19 53:1,8,13,25 54:3 54:15 58:3 59:7,23 60:12,12,14 61:21 61:22,24,25 62:7,16 62:17,24 63:2 66:9 66:12 68:14 69:15 69:17,19,21 70:1,5 70:7,9,12,12,15 71:13,17,22,24,25 72:1,2,3,5,6,17 73:2 75:12,16,17 77:2,2 77:11,24 78:4,16 79:3,10,17 80:2,3 80:13,14 81:5,8,16 81:19,20 82:5,21,24 83:3,9,10,16 84:1,4 84:7,11,14 85:6,11 85:16,21,23,23 86:6 86:9,10 87:1,3,12 87:17 88:20,24 89:23,25 90:16,24 91:2,3,7,19 92:7,16 92:18,18 93:15,19 95:9 96:13,15,22,24 97:11,19 98:21,23 99:23,24 100:13,22 100:24 101:10,16 | 101:22 102:6,20 103:4,20,22 104:1,6 104:7,9 105:9,14,20 105:20,21,24 106:8 106:11 107:8,9,11 107:19,25 108:14 108:19,20 109:2 112:23,25 113:2,11 113:16 114:21,22 115:14 116:7,15 117:8,9,12,15,19,21 118:2,9,12,23 119:6 119:7,10,12 120:13 121:6,8,16,20,21 122:2,23,24,25 123:3,17,19 124:6 124:15 125:5,7,12 125:13 127:11 flights 25:17 38:17,21 41:11 45:12 47:3 Florida 6:19 fluid 119:23 folks 53:23 follow 22:4 49:21 52:2 79:18 followed 60:3 66:10 69:24 71:9 73:3 77:25 78:20 79:21 81:12 85:23 116:19,24 following 36:25 52:20 71:18 79:2,11 132:12 follows 4:16 78:17 FOM 31:1,10 68:14 force 130:9 foregoing 129:1 130:22,22 | 132:8 Forensic 6:23 Forget 29:13 form 11:25 12:14 23:9 27:7 31:12 32:10 35:7 36:1,22 39:17 40:19 42:1,14 43:4 43:13,18 44:15 45:3 45:19 47:18 50:18 53:3,11 54:6 55:10 57:6 60:18,22 61:11 62:3,20 65:7,12,18 65:24 68:22 69:3 72:9 76:18 77:7 79:6 80:16 82:9 83:13 92:22 94:7 100:8,18 106:5 113:3 114:8 118:14 119:21 120:23 121:1,23 123:23 124:24 125:15,19 127:1,21 formal 26:17 28:18 59:9 formally 11:13 forth 132:16,24 forward 89:8,20 foundation 40:10 41:14 47:13 48:12 foundational 40:14 four 8:15 78:11 Francisco 2:4 frankly 79:20 93:25 free 41:25 42:11,24,25 |
|---|--|---|---|

| | | | |
|----------------------|----------------------|---------------------|----------------------|
| 43:2 | 56:4 58:22,24 62:6 | going | 36:5 |
| front | 63:1,10 64:13 73:4 | 4:18 8:14 20:20,22 | hand |
| 93:16 | 87:21 90:6 101:5,14 | 21:8,18 23:22 25:25 | 85:25 86:11 125:22 |
| Frontier | 107:21 124:14,20 | 30:12 38:4 45:21 | handwritten |
| 1:6 2:7 4:21 9:5,10 | gathering | 50:20 57:11 58:4,14 | 7:21 |
| 10:21 13:6,23 16:11 | 73:5 | 59:4 63:9,11 64:3 | hand-in-hand |
| 16:14,20,22,23 | general | 66:24 67:1,4,13,25 | 25:18 |
| 17:21 26:16 35:14 | 77:18 95:8 105:13 | 73:23 78:2 80:25 | happen |
| 38:17,21 39:5 41:10 | generalized | 81:13 86:17,18 87:7 | 102:4 108:11 114:15 |
| 59:23 72:21 78:3,6 | 63:8 | 87:23 89:1,2 91:15 | 114:18 124:12 |
| 78:13 79:3 80:5,8 | genital | 93:9,11 95:10 97:12 | happened |
| 93:15 96:4 98:14 | 115:19 | 97:15,15,18 98:8,15 | 55:5 56:7 57:11 |
| Frontier's | genitals | 100:5 103:2,9,10,12 | 64:16 69:25 92:13 |
| 10:9 22:4 27:17,20 | 99:10 100:23 101:18 | 103:13 104:11 | 117:1 118:9 123:17 |
| 28:2,14 29:6,16 | 105:22 106:10,24 | 105:17 109:8,10,16 | 124:10 |
| 34:7 35:22 71:2,6,7 | 107:24 112:22 | 113:14,18 118:24 | happening |
| 72:25 75:21 76:2 | 118:4 120:15,20 | 119:19 121:4 124:4 | 116:20 117:23 |
| 78:23,23,25 79:23 | 121:7 125:7 | 128:14 | happy |
| 80:10,18 81:1,17,25 | getting | good | 7:15 15:19 |
| 94:4,19 | 90:22 92:20 98:12 | 4:17 6:7,8 56:25 | harassing |
| full | 115:7 | 92:20 103:16 | 20:6 21:9 33:20 62:5 |
| 6:11 46:6 52:5 130:8 | give | 111:24 120:1 | 62:21 63:16 65:14 |
| full-time | 6:14 9:9 14:22 67:1 | good-faith | 67:8,10 |
| 6:22 8:19 95:2 | 73:20 77:8 90:13 | 55:8 56:15 | hard |
| further | 118:15 | Great | 36:24 125:25 |
| 21:12 65:24 90:13 | given | 21:21 24:5 | head |
| 104:10 105:17 | 33:10 78:11 96:10 | guess | 38:14 54:15,18 55:1 |
| 123:5 | 108:25 119:20 | 34:15 39:9 51:22 | heard |
| furthermore | 120:1 130:23 | 61:2 65:21,21 66:16 | 5:5 44:22 45:1,7,18 |
| 93:17 | gives | 66:21 76:21 81:24 | 46:25 106:10 |
| <hr/> | 18:8 | 88:15 91:14 106:13 | hearing |
| G | giving | guidance | 44:14,19 |
| <hr/> | 17:17 | 22:4 24:8 26:17,21 | help |
| gage | go | 27:4 28:19 29:2 | 23:23 24:4,5 32:3 |
| 18:3 | 5:7 18:10,15 21:4,11 | 59:24 60:2 108:20 | 55:24 80:22 90:13 |
| garner | 47:16 59:14 60:10 | guidelines | 102:9 103:14 |
| 88:25 | 62:10 65:11 69:22 | 126:12,20 | helps |
| gate | 71:20 76:21 80:21 | gut | 32:4 |
| 10:22,24 11:3,6,12 | 86:23 89:8,20 91:23 | 88:19 | Hi |
| 11:14,16,20 12:3,7 | 92:3 93:9,13 97:14 | guys | 65:16 |
| 12:12,13,17,24 13:1 | 97:24 98:3 101:9,12 | 128:6,7 | highlighted |
| 13:4,9,14,21 14:3,4 | 105:7,17,24 106:11 | <hr/> | 39:14 49:8,13 50:23 |
| 14:4,10,19,24 15:4 | 110:2,5,6,13,14 | H | 52:7 |
| 15:15,24 16:1,5,11 | 118:16 119:13 | <hr/> | hold |
| 16:13,19,25 17:6,10 | 122:20 123:15 | half | 54:10 70:19 |
| 17:16,21 18:4 19:1 | 126:6 128:11 | 77:23 | holder |
| gather | | halt | |

| | | | |
|-----------------------|-----------------------|------------------------|---------------------|
| 130:6 | 114:16 | inappropriately | 101:14 107:21 |
| holding | | 96:14 | 120:2 124:14,20 |
| 23:23 | I | incident | 131:13 |
| honest | ICAO | 6:24 9:15 84:13 | informed |
| 55:8 56:14 | 27:10 28:9 30:15 | include | 116:21 |
| honestly | 34:22 | 80:25 | inherent |
| 114:20 120:9 122:1 | idea | included | 12:6 |
| hopefully | 111:25 | 14:19 51:20 | initial |
| 93:11 | identification | including | 124:25 |
| hour | 9:18 | 39:24 122:6 | initially |
| 4:5 128:2 | identified | incongruent | 41:3 |
| hours | 30:1 | 56:2 | initiate |
| 8:10 21:23 73:22 | identify | inconsistent | 59:15 62:11 70:2 |
| human | 30:13 33:11 34:3 | 15:7,18 28:2,15 | 98:4 |
| 26:19,22 27:5,15 | identifying | 29:17 30:2 | input |
| 55:22,22 59:1,25 | 131:13 | incorporated | 107:2 |
| 66:18 68:20 78:14 | Illinois | 10:11 69:17 | inquire |
| 78:23 90:2 | 2:10 | incredibly | 63:21 64:25 65:3 |
| hybrid | imagine | 52:15 | 66:4 68:18 69:8 |
| 79:12 | 42:21 62:8 66:16 | INDEX | 72:17 75:13,17 77:3 |
| hyphenated | 97:6 | 3:1 | 78:4,7 81:6 82:6,22 |
| 59:5 | immediate | individual | 84:2 |
| hypothetical | 103:7 | 17:17 | inquired |
| 66:10 83:1,15 85:5 | immediately | individuals | 60:5 70:16 |
| 86:18,21 87:20 88:4 | 83:12 84:8,12 101:21 | 62:18 | inquires |
| 89:18 90:15 91:2 | 103:22 104:7 | industry | 80:14 89:17 |
| 92:11,16 94:1 96:11 | 117:15 121:22 | 9:6 17:5,9,14 18:2,22 | inquiring |
| 96:21 98:18 99:18 | 125:10 | 19:1,12,16,19,20 | 13:7 77:20 |
| 100:4,16,19,21,22 | imminent | 20:3 27:6,10,12,21 | inquiry |
| 100:24 102:3 103:8 | 123:11,12 | 27:22,24 28:1,7,8 | 104:10 |
| 103:16,17 104:22 | impact | 28:14 29:5,15 30:2 | inserting |
| 104:22,25 105:7,19 | 85:10 | 30:4,11,14,17,20 | 92:23 |
| 106:15,16,20,22 | impactful | 31:17,21 32:8 33:7 | inside |
| 108:5,7,13 112:17 | 64:14 | 33:9,16 34:3,4,10 | 45:21 53:13 |
| 113:22 114:4,5,7,20 | impossible | 35:4 77:5,17 103:5 | insist |
| 115:25 116:3,6,14 | 28:11 99:16 | 126:12,16,20 | 20:21 |
| 116:22 117:6,7,11 | impressions | 127:15,16 | Institute |
| 117:17,20 118:17 | 46:6 | infers | 6:19 |
| 118:21 119:20 | improper | 121:7 | instruct |
| 120:10 121:15 | 99:16 100:19 | information | 101:10 |
| 123:7,14 124:22 | inappropriate | 18:19 24:7 55:4 56:4 | instructed |
| 125:1,4,4,14 126:5 | 50:5 51:5 53:10,15 | 62:7 63:2,10 64:14 | 81:14 |
| 126:7,9 | 53:22 54:4,12,21 | 73:4 85:9,16 87:21 | instructor |
| Hypothetically | 56:3,10,12 79:25 | 88:25 89:24 90:6,13 | 95:9 |
| 83:24 | 85:22 87:2 92:17 | 93:8 97:15,25 98:1 | instructs |
| hypotheticals | 127:18 | 98:8 100:12 101:5,6 | 69:14,21 |

| | | | |
|--|--|---|--|
| insuring 52:3 77:24 | 63:4 65:1,2 66:5,5 68:19 69:9 72:4,7 | 110:6 112:6,6 122:16 | 56:10 58:8 63:6 66:12 79:15 91:15 |
| integrity 53:1 | 75:14,14,18 78:8 79:4 80:4,15 81:7 | johndmckayatty@... 2:5 | 91:17 93:19 99:10 99:11 100:11 |
| intent 53:16 | 82:7,23 83:10 85:7 85:9 106:1 | joint 24:25 25:16 | 102:11,12,15 107:16 109:20 |
| interact 11:11 43:22 | involving 99:10 | judge 5:22 20:6,7,20,22 21:7 26:13 73:14 109:9 | 114:3 119:22 121:11 123:16 124:3 125:12 126:2 128:9 |
| interacted 53:18 | in-flight 23:1,5,7,12,13,17,22 23:24 | judgment 122:2,6 126:9 | knowledge 12:4 30:5 35:20 74:25 |
| interacting 98:10 | issue 24:23 52:17 | jumbling 23:10 | |
| interaction 23:2 48:22 53:16 | issued 130:7 | jump 25:24 62:22 | L |
| interactions 8:23 124:8 | issues 12:12 14:10 23:1,8 23:13,17,22 24:19 25:9,13 39:6,8,11 39:16,20,23 40:4,9 41:15 48:11 50:8 51:16,21 52:6,22 59:3 106:19 | jumping 33:20 81:9 | lack 40:12 53:19 69:13 122:2 |
| interested 5:13 130:10 | | juncture 89:14 | laid 19:9 |
| interesting 43:12 | | June 7:2 | lap 106:17 113:8 |
| Internet 5:4 | | justified 98:11 | large 77:14 |
| interpret 120:7 | item 66:15 | | latest 118:21 |
| interpretation 36:14,19 50:15,16 51:9 71:6 76:2 | i.e 23:24 52:4 63:3 | K | law 2:3,3,9 99:9 |
| interrupt 74:3 99:2 | J | keep 26:1 45:22 46:8,17 57:11 67:23 68:12 109:22 | laying 40:9,11 41:14 |
| interrupted 69:2 84:9 106:3 119:2 | Jaimie 1:20 4:5 5:9 76:6 85:1 128:6 130:4 132:5 | kind 35:6 53:24 87:4,16 96:25 | lead 66:18 |
| interrupting 112:11,14 | jeopardy 103:12 | KJD-DJA 1:4 | leap 97:21 |
| interruption 38:3 | job 1:23 107:3,6 123:16 124:12 | know 7:16 8:14 10:14 12:2 12:17,22 13:7 14:2 14:3,6,13,23,24 15:4,15 16:5,9,25 20:15 27:23 28:7,10 29:11 30:3 31:20,21 31:22,23,25 32:14 32:25 33:4 36:3,3 42:11 44:17,22,22 45:13 50:10 55:8,24 | learn 13:12 121:20 |
| intervene 103:5,11,13 104:2 | John 2:3 5:18 20:8,12 26:10,10,14 45:24 46:9 47:22 57:19 65:11,15 67:16 73:10,13 74:12,15 74:18 75:7 99:5,5 107:1 109:21 110:2 | | learned 86:13,16,25 87:11,17 126:18,23 |
| intervened 117:22 123:13 | | | learns 83:9 |
| intervening 108:4 116:18 | | | leeway 92:3 |
| investigation 86:13 | | | Legal 5:10,11 |
| involved 25:3 60:16 62:1,18 | | | legitimate |

| | | | |
|----------------------|----------------------|-----------------------|-----------------------|
| 100:6 | looking | 30:19,25 31:1,6,7,9 | 61:13 62:14 63:12 |
| letter | 34:14 101:7 108:19 | 31:14,15 32:1,5,6 | 63:19 64:19,23 65:9 |
| 132:22,24 | looks | 34:7 53:21 68:5,9 | 65:11,15,17,21 66:1 |
| let's | 89:4,11 | 68:13,14,18 69:7,13 | 66:24 67:7,10,15,21 |
| 20:25 21:2,3 30:18 | lost | 69:16,18,21,22 70:6 | 68:1,3,8 69:1,5 |
| 48:3 80:21 100:21 | 83:22 | 70:10,12 72:5 73:2 | 72:14 73:10,13,16 |
| 102:25 106:4 | lot | 75:12,16 80:5,8 | 73:21 74:2,6,10,12 |
| 115:13 121:2 | 40:22 49:10 106:19 | 89:25 | 74:15,18,21,23 75:2 |
| level | 111:25 120:1 127:2 | manuals | 75:4,7,9,10,24 76:6 |
| 88:24 | 128:1 | 30:8,23 32:3,23 | 76:11,19 77:15 |
| liberty | low-cost | 75:21 80:10 | 79:22 80:9,20 82:15 |
| 104:24 | 28:10 | March | 83:17,21,23 84:10 |
| life | lump | 1:16 4:4,19 | 84:18 85:1,4 88:16 |
| 55:14 | 95:10 | marked | 92:25 93:1 94:14 |
| limited | lunch | 9:16,18 | 96:8,9 97:7 99:5,13 |
| 65:23 | 128:2,5,8 | marks | 99:17,19,21 100:15 |
| line | Luncheon | 84:19,23 | 100:20 102:13 |
| 30:12 33:1 89:7 | 128:16 | master's | 104:19 105:1,5 |
| lines | luxury | 6:18 | 106:6,21 107:1,5,7 |
| 59:18 | 88:21 120:7 124:16 | mate | 108:12,18 109:8,15 |
| listed | 124:18 | 101:9 | 109:20,24 110:2,5,8 |
| 7:8,11,12 | | materials | 110:10,13,17 111:3 |
| listen | M | 9:3 37:2 60:25 75:20 | 111:5,10,14,16,19 |
| 62:24 97:11,19 | Magna | 96:2,4,6 | 111:22 112:2,6,10 |
| 108:13,15 113:12 | 5:10,11 | matter | 112:13,16 113:23 |
| listened | mailed | 4:20 52:1 110:19 | 114:12 115:9,16 |
| 45:7 | 133:1 | 125:22 | 119:5 120:3,24 |
| little | maintain | Maye | 121:18 122:11,16 |
| 10:2 32:4 58:9 83:22 | 7:3 | 2:9 3:4 5:17,17 6:6,8 | 122:18 124:1 125:2 |
| 114:1 118:17 | major | 9:19 12:10,20 13:17 | 125:16 126:10 |
| LLC | 28:9,9 31:22 32:2,23 | 14:8,15 15:10 16:4 | 127:13 128:3,6,13 |
| 2:3 | making | 18:9 19:21 20:1,8 | ma'am |
| LLP | 37:8 52:24 64:14 | 20:11,14,18,22 21:3 | 18:10 19:22 21:15 |
| 2:8 | 87:2,24 99:15 | 21:5,13,14 22:2,18 | 25:25 29:6,10,13,15 |
| logical | 110:16 131:4 | 22:24 23:15 26:5,10 | 31:5 34:2 35:10,21 |
| 60:7 91:22 | man | 26:14,15 27:11 | 38:10 46:21 47:24 |
| long | 44:21 | 31:13 32:12 33:24 | 56:6 61:9,18,18 |
| 25:25 30:12 87:23 | manager | 34:1 35:9 36:2 37:6 | 66:2 68:4 74:24 |
| 113:5 121:11 122:7 | 14:11,14 | 38:1,9 39:21 41:8 | 75:11 81:3 82:2 |
| 123:9 | manner | 42:3,17 43:5,8,14 | 96:10 97:8 99:22 |
| look | 60:14 61:2,23 87:2 | 44:4,24 45:8,24 | 100:16 102:14 |
| 14:21 15:22 38:24 | 106:24 112:22 | 46:5,9,14,20 47:22 | 104:20 105:8 |
| 41:17 65:22,24 | manual | 47:23 50:22 53:6 | 108:13 112:17 |
| 69:22 | 27:18,21 28:2,15,17 | 54:1,13 55:17 56:20 | 114:1 117:3 122:19 |
| looked | 29:7,12,16,18,19,20 | 57:9,13,19,21,24 | McKAY |
| 38:13,23 43:1 54:19 | 29:21,24,25 30:6,10 | 58:1,19 60:20 61:8 | 2:3 5:18,18 8:9 11:25 |

| | | | |
|--|--|---|--|
| 12:14 13:5,22 14:12 15:6,17 18:6 19:18 19:24 20:5,9,19,25 21:2,4,8,24 22:1,17 22:21 23:9 26:3,8 26:13 27:7 31:11 32:10 33:18 35:6 36:1,22 37:25 39:17 40:19 42:1,14 43:4 43:7,13,18 44:15 45:3,19 46:3,6,11 46:19 47:18 50:18 53:3,11 54:6 55:10 56:16 57:6,18,20,23 60:18,22 61:11 62:3 62:20 63:15 64:18 64:21 65:6,10,12,16 65:19 66:22,25 67:8 67:11,13,17,23 68:6 68:22 69:3 72:9 73:8,11,15,18,20,24 74:3,7,11,13,16,19 74:25 75:3,5,8,23 76:18 77:7 79:6 80:6,16 82:9 83:13 83:18 92:22 94:7 95:25 97:3 99:1,9 99:15,18 100:8,18 102:1 104:17,21 105:3 106:4,15,25 107:3,6 108:8,15 109:5,10,16,22,25 110:4,7,9,12,15,18 111:4,6,11,15,17,20 111:24 112:4,9,12 113:3 114:8 115:8 118:14 119:21 120:23 121:1,23 122:14 123:23 124:24 125:15,19 127:1,21 128:1,4 McKay's 48:4 McQUILLEN 2:8 5:2 MEA | 6:23 mean 16:18 18:16 23:23 24:22 27:9,10 30:23 31:24 32:3,16 33:15 34:20,21 37:1 40:23 42:7,7 48:16 50:10 70:21 76:21 86:22 88:2 89:2 95:7,8 98:9 101:8 114:15 115:1 118:19 119:25 120:8 122:3 122:8,9 123:6,13 125:20 126:3 meaning 48:5,5 means 32:14 132:22 meant 48:19 mechanical 6:17 media 4:19 84:17,20,24 medical 23:21 meet 89:8 meeting 110:25 member 40:25 48:23 members 64:15 mentioned 8:18 34:2 40:23 59:21,24 61:1 merely 18:20 38:14,23 53:25 89:12 met 100:17 mic 111:2 Michigan 6:17 | microphone 74:8 middle 81:10 111:12 mind 44:19 53:13 72:1 mine 50:9,11 72:25 minor 32:25 50:6 87:25 89:4 91:24 92:4 93:23 98:5 113:6,17 123:12 misconduct 22:5 26:18,22 27:5 27:14 62:17 63:5,23 65:2,3 66:6,17 68:11 69:10 72:1,2 72:7 75:14,15 78:8 78:15,22 79:1,3 80:1,12,19 81:2,7 81:16,18,21 82:1,5 82:13,19 83:2,8,25 85:12,14,22 90:2,17 90:21,23,25 91:21 97:21 98:22 99:24 102:8 126:18,22,25 127:7,25 misheard 106:13 misperceived 54:5 55:19 57:5 113:8 missing 117:17 misspoke 127:24 misstated 82:11 mixing 107:18 module 28:22 molestation 60:1 93:25 115:18 116:17 117:25 | 127:4,10,24 molestation-type 59:2 money 38:17,21 41:10,21 42:6 44:6,13 45:18 46:24 morning 4:17 6:7,8 move 21:13 34:15 48:18 66:23,24 67:2,19,21 75:23 80:22 83:12 84:12 101:20,21 103:23 104:7 113:1 117:15 118:6,13 119:11 120:21 121:22 122:25 moved 39:3 48:15 64:1 70:18 79:2 99:11 101:14 117:8,10,14 119:1,4,9 121:20 moves 81:8 82:24 moving 82:7 107:13 Mullin 50:4 51:4 multiple 11:11 Murphy 2:8 5:2 <hr/> N <hr/> name 6:11 34:10,16,20 59:5 names 59:13 nature 47:9 49:24 50:24 51:8 88:20 96:23 99:23 107:10 120:15 125:7 NCSV |
|--|--|---|--|

| | | | |
|----------------------|-----------------------|---------------------|-----------------------|
| 34:22 | nontargeting | 11:25 12:14 13:5,22 | 41:6 50:5 51:5 53:2,9 |
| near | 62:12 | 14:12 15:6,17 18:6 | 55:9,14 58:4 62:17 |
| 106:12 118:8 | nonthreatening | 19:18,24 22:17,21 | 63:7,23 71:25 72:2 |
| nearby | 70:2 98:4 | 23:9 27:7 31:11,11 | 80:12 86:10 87:18 |
| 101:23 | nonthreatening | 32:10 35:7 36:1,22 | 87:24 92:17 98:22 |
| need | 59:16 | 39:17 40:19 42:1,14 | 101:11,17,23 102:7 |
| 20:5,7 27:23 34:12 | Normally | 43:4,7,13,18 44:15 | 106:8,9 108:2 113:5 |
| 67:19 87:21 93:18 | 13:10 | 45:3,19 47:18 50:18 | 113:13,17 114:23 |
| 95:22 96:20 104:4 | Norton | 53:3,11 54:6 55:10 | 117:22 118:3 |
| 119:1 128:7 | 1:12 4:8,20 6:7,13 | 56:16,17 57:6 60:18 | 120:14,19,19 122:3 |
| needed | 9:21 128:7 | 60:22 61:11 62:3,4 | 124:19 |
| 98:6 | Notable | 62:4,20 63:15 65:6 | observes |
| needs | 38:16 | 65:7,12,13,13 68:22 | 91:4 96:13 100:23 |
| 91:25 111:7 | notations | 68:23 69:3,4 72:9 | 105:21 |
| neglected | 131:8 | 72:10 76:18 77:7 | observing |
| 59:19 | note | 79:6 80:6,16 82:9 | 56:22 86:7 121:10 |
| neither | 5:2 41:9,13 | 83:13 92:22 94:7 | obstructing |
| 79:20 | noted | 100:8,18 102:1 | 110:10 |
| nephew's | 47:22 68:1,2 74:10 | 104:17 106:4 | occupy |
| 54:23 | 74:12,15,18 92:25 | 109:23 110:5,6,14 | 10:23 17:15,18,22 |
| neutral | 96:8 99:13,19 111:3 | 110:16 111:8,9,11 | occurred |
| 37:9 | 111:5,10,14 | 111:16 113:3 114:8 | 116:22 |
| Nevada | notes | 118:14 119:21 | occurrence |
| 1:2 4:23 | 7:21,25 8:4 | 120:23 121:1,23 | 69:19 |
| never | notice | 123:23 124:24 | offer |
| 10:24 11:2 22:6,9 | 132:9 | 125:15,19 127:1,21 | 130:25 |
| 25:20 53:17,17 | noticing | objections | offering |
| 67:25 72:19 79:16 | 5:16 | 20:18,24 46:17,18 | 131:3 |
| 107:16 | notified | 65:17 109:11,17 | office |
| new | 50:3 51:3 132:18 | objective | 132:15 |
| 115:24 | noting | 37:13,16 44:9 | officer |
| Nickel | 38:20 44:5 47:12,25 | objectively | 50:4 51:4 90:5 |
| 38:11 49:25 50:25 | number | 124:13 | 130:20 132:6,16 |
| 51:7,10 | 4:23 5:21 130:7 | obligated | officer's |
| NJK | | 63:25 | 130:1 131:8 132:1 |
| 5:22 | O | obligation | okay |
| nonaffecting | oath | 83:11 85:10,17 | 7:3,18 8:16 13:18,18 |
| 101:11 | 4:12 6:3 130:17 | observation | 18:1 19:11 21:3,5 |
| nonrelated | oaths | 44:9 50:7,9,10,13 | 21:13,21 22:3,25 |
| 101:10 | 130:14 | 54:4 56:8,14,15 | 24:1,3 25:25 26:25 |
| nonresponsive | object | 98:9 107:23 108:1 | 29:4,13,13,14,22 |
| 92:9 | 15:11 64:17 65:18,20 | 116:17 117:19 | 31:5 32:13,20 33:11 |
| nonspeaking | 96:1 | 118:19 | 34:6,10,15,19 35:13 |
| 46:17 | objecting | observe | 37:7,12 42:18 46:5 |
| nontargeted | 61:9 | 88:22 121:6 | 46:10,11 47:8 49:1 |
| 90:9 | objection | observed | 49:3,23 50:13 51:14 |

| | | | |
|---|---|--|--|
| 54:2 56:21 57:1,3,9 57:15,24 58:13 59:6 60:11 61:20 63:20 64:17 66:21 68:17 69:1 70:20,23,25 71:12,14,19,21 74:2 74:10,22 75:11 76:15 77:16 80:21 81:23 82:2,16 83:18 85:5,18 86:23 87:4 87:8 88:6,10,12 89:9,11,22 91:11,24 92:25 94:24 95:19 96:8 97:8 98:6,19 99:9,13,17,19 100:21 101:13,15 102:22 103:15 104:4,13 105:2,2 113:24 115:2,5 116:1,3 118:2,25 119:3,8 121:19 122:12 123:8 | 89:25 opine 9:4 opining 86:5 opinion 18:8 54:10 70:6,10 70:14,19 71:5,10 76:22,25 77:5 opinions 9:10 10:18 18:12,17 18:18,20 19:6,8 37:22 40:17 75:25 76:1,12,15,16 77:19 94:3,17,18 95:19,20 95:23 opportunity 79:16 ops 32:6 order 59:13 73:25 96:3 ordered 86:12,20 org 14:21 organization 34:3,11,17 35:3 organizational 15:23 original 132:17,25,25 outcome 5:13 outline 64:9 outlined 60:1 79:19 overall 8:21 35:16 123:22 overarching 77:9,19 overview 6:14 | page 3:6 10:17 21:10,11 36:8 37:24 80:24,25 80:25 Pages 3:2 paid 37:18,21 paragraph 36:9 38:10 47:8,16 47:20 48:6,10 49:13 49:23 51:25 52:6 58:20 Pardon 111:19 parent 86:15 97:1 parenthesis 38:16 50:1 parents 54:21 PARK 2:3 part 7:25 8:19 23:11 25:2 25:17 35:1 53:19 59:16 90:7 94:10 95:20 131:2,12,16 participants 5:4 particular 73:25 parties 5:7,14 130:12,12 131:3,5 132:17 133:1 parts 29:25 79:13 party 5:12 36:11 131:2,10 131:11,11,15,15 party's 131:1,11 pass 17:18 68:19 74:7 111:1 | passage 38:2 passenger 25:17 63:22,24 80:11 80:13 82:18,19,20 82:20 83:12,24 84:12 96:12,13 101:23 103:6,21,23 104:8 106:12 123:10 passengers 63:21 65:1,4 66:5 68:19 69:9 72:4,7 72:17 75:13 77:13 78:8 79:4 80:15 81:6 82:7,23 84:3 90:14 105:25 118:8 118:8 124:8 passenger's 105:16 passes 59:15 pass-through 69:13 pause 41:2 pay 79:14 paying 44:20 47:3 people 60:16 62:1 peppered 125:23 Pepsi 41:19 42:12 perceive 53:13 104:3 perceived 53:10 54:21 55:6,25 56:9,23 85:21,22 123:4 perception 55:8,9 56:5 122:24 123:20 performance |
| old 54:24 106:18,23 older 17:16 onboard 109:2 once 15:2 19:3 51:17 64:8 81:10 84:13 86:15 107:17 113:14 121:25 123:15 126:5 127:22 one-year 14:4 operating 16:22 76:9 operation 31:14 operations 27:17,20 28:2,15,17 29:7,11,16,18 30:10 30:19 31:6,8,15 34:7 68:5,9,13,14 68:18 69:7,17,21 | <hr/> P <hr/> | | |

| | | | |
|----------------------|-----------------------|---------------------|----------------------|
| 40:17 | 69:11 72:24 76:9 | policies | 52:10 |
| period | 77:10 94:6 95:2,13 | 9:11 10:9,12 30:10 | preparation |
| 86:8 121:9,12 132:13 | 96:12 101:3 112:20 | 66:9 69:16,20,23 | 7:23 37:3 |
| 133:4 | 120:5,25 121:3 | 71:2,6,7,16 73:3 | prepare |
| permission | 123:22 127:18 | 76:2,13 77:25 78:13 | 37:19,19 |
| 39:1 41:22 42:8 43:2 | piloting | 78:21 79:13,23 | prepared |
| perpetrator | 8:22 39:5,8,11,16,20 | 80:10 90:4 91:8 | 9:20 10:6,10,13 |
| 64:2 65:5 79:2 82:8 | 39:23 40:4,9 48:11 | 93:5,10,16 94:4,19 | 36:12 37:5 |
| 82:25 121:14 | 50:8 51:16,21 52:6 | 103:3 104:12 | preparing |
| person | 52:22 | 119:17 124:5 127:5 | 9:25 10:3 31:17 |
| 13:1 132:15 | pilots | 127:23 | prescribed |
| personal | 24:8 26:17,21 27:4 | policy | 52:20 66:13 |
| 124:22 125:18 | 27:13 30:22 35:14 | 60:15 66:3,13 68:4 | present |
| 131:13 | 35:19,24 64:6 69:8 | 78:3,4,6,22,24 79:1 | 2:12 5:14 131:10 |
| personally | pilot's | 79:10,17,20 80:18 | presented |
| 47:6 54:20 92:7 | 30:25 31:1,10,14 | 81:1,17,20 82:1,3,4 | 13:6,23 |
| Peter | 68:14 | 82:12,12,21 83:11 | preserve |
| 1:3 4:21 48:22 | place | 84:1,5,7 85:7 90:9 | 8:3 |
| phase | 5:7 60:8 127:6,23 | 90:17,20,23,24 | pressing |
| 90:8 | placed | 91:12,15,21 93:4 | 87:21 |
| Phone | 4:12 6:2 96:3 130:17 | 94:13 119:15 | pretty |
| 2:5,10 | plaintiffs | 123:21,24 127:7,12 | 41:22 77:14 |
| phrased | 1:4 2:2 5:19 36:15,21 | politely | previously |
| 82:14 | 37:2,18,21 49:17 | 45:20 | 18:14 19:9 32:21 |
| phrasing | please | Porter | 51:24 |
| 61:6 | 5:2,25 6:11 16:7 20:8 | 1:20 4:5 5:9 130:4 | prior |
| physical | 26:8,14 36:16 46:8 | 132:5 | 15:3 38:19 40:25 |
| 87:15 99:7 | 50:20 53:5 64:22 | portions | 45:12 47:3 48:15,23 |
| PIC | 66:22 72:23 73:9 | 30:1 | 49:22 64:14 130:16 |
| 8:24 65:3 71:13 | 74:12,15,18,19 75:7 | pose | problem |
| pick | 75:7,8,9 76:4,6 | 52:12 | 52:12 91:14 121:5,15 |
| 79:13 | 83:20 99:3 107:5 | posing | Proc |
| picked | 108:15 115:8 117:1 | 61:19 | 130:12,18,23 131:6 |
| 47:19 | 128:13 | position | 131:17 132:1 |
| PICs | PM | 11:3,6 13:12 22:10 | procedure |
| 64:25 | 84:20,24 128:15,16 | 22:12,20 24:14 43:6 | 4:2,11,14 66:13 |
| picture | point | 96:5 | 79:18,21 83:7 90:10 |
| 54:18 | 21:9 38:23 47:13 | possess | 119:16 127:8 |
| piece | 59:19 87:20 88:2,9 | 30:6 | 130:16 132:10 |
| 29:19 | 88:12 89:21 92:7,11 | possible | procedures |
| pilot | 93:2,3 105:23 106:7 | 38:24 64:14 90:1 | 9:7 10:10,12 22:4 |
| 8:19 11:9,20 12:5 | 107:20 116:21 | potentially | 26:17,20 27:3 28:19 |
| 39:25 40:4,6 51:16 | 117:1,14 118:12,25 | 93:5 | 29:2 30:10,18 49:20 |
| 51:25 52:18 62:15 | 122:13,21 127:9 | preceded | 52:2,21 66:9 69:16 |
| 62:23 63:9,20,24 | pointing | 18:18 | 69:20,23 71:3,7,16 |
| 64:1,3 65:5 68:18 | 117:3 | preflight | 73:3 76:2,13 78:1 |

| | | | |
|--|---|--|---|
| 78:19 90:4 93:16 94:13 103:3 104:12 104:23 105:12 116:19,24 119:17 127:5,23 proceed 6:4 91:17 92:6 111:22 112:14,14 proceeding 59:11 89:1 process 18:5 processing 19:2 product 131:7,14 products 131:1 Prof 130:9 profession 6:21 professional 93:19 105:14 110:4 117:21 professionalism 75:1 110:19 professionally 46:14,15 program 35:23 project 8:12 proprietary 75:20 93:8 94:12 96:2,4,6 protective 96:3 protocol 9:7 14:6 19:7 35:18 49:20 52:2,21 59:11 59:16,21,21 62:9,11 62:13,15 68:10,10 72:15,20,21 75:12 81:12 83:7 89:6 116:19,24 119:13 | protocols 80:11 90:2 92:2 105:11 provide 24:7 26:16 37:22 63:18 130:25 131:7 provided 35:19 60:3 62:12 131:14 provides 92:2 provision 69:7 70:6,10 75:15 provisions 32:5,7 34:6 psychologist 55:21 pull 7:16 8:13 purchase 38:25 41:18 42:9 purpose 38:20 39:24 47:11,25 51:19 pursuant 130:15 132:9 push 52:13 put 13:16 33:2 putting 49:4 117:4 pylon 114:17 P.D 38:13 <hr/> Q <hr/> qualified 11:16,19 12:5,11,23 13:2,20 14:9 25:12 104:14 130:5 quality 5:2,3 quarterly 28:21 | question 10:15 12:1,15 14:2 15:3 16:7 23:11,12 26:4 27:8 29:24 30:24 31:5,12 32:4 35:7 37:25 39:12 40:20 45:20 48:8 50:20 53:5 55:11 60:19,23 61:6,10,12 61:19 62:4 63:5,13 63:14 64:24 65:7,13 66:2 67:24 74:4,5 75:6 79:7,15 81:24 82:10,14 85:2 94:22 97:9 100:3,6 103:18 108:6 109:6 110:23 111:1 112:15 117:11 122:1,5,22 122:23 123:18,19 125:11 127:9 questioning 30:13 74:11 questions 20:12 21:12,16 26:2 26:7,9,12 45:23 53:20 61:19 62:12 63:17 64:4,22 66:19 67:16,18 73:21 75:9 88:8,18 89:3,4 90:9 92:8,20 105:4,25 109:7,12,18 111:1 112:3 113:11 119:11 123:2 126:2 quite 40:6 79:20 93:25 120:9 122:1 quote/unquote 12:4 52:22 79:10 87:10 88:19 92:5 <hr/> R <hr/> raising 89:7 reach 45:13 read | 19:15,22 21:11 29:21 29:23,25 37:3,4 76:5,6,7 85:1,3 94:1 129:1 real 108:2,11 113:18 126:6 reality 67:2 really 9:7 25:6 31:24 40:13 42:7 46:7 67:5 71:3 79:15 87:10,16 88:15 92:4,5 93:18 94:11 106:19 107:25 113:15 114:1,22 115:3 119:24 120:1 122:3 122:6,7 124:10,11 realm 102:4 reason 48:9 49:14 55:7 115:12 reasonable 41:2,5 42:19 43:24 43:25 47:7 122:9 reasonably 32:1,24 receive 67:18 90:10 95:3 received 7:15 28:24 29:1 35:14 receptive 88:1 recess 38:6 58:16 84:22 128:16 recoiling 102:8 recollection 48:11 recommend 101:19 107:12 112:25 118:6 |
|--|---|--|---|

| | | | |
|---|--|--|---|
| 120:16 reconcile 43:17,20 record 4:18 5:8 6:12 38:4,5 38:8 46:8 58:14,15 58:18 68:2 69:2 76:7 84:9,21,25 85:3 99:14,20 106:3 119:2 128:12,14,15 130:23 recorded 5:6 130:21 132:7 recording 5:3,6 recount 97:11,20 refer 18:15 52:6,10 59:4 73:24 80:17 127:4 reference 10:13 19:3 28:25 69:19 80:7 103:2 referenced 10:8 31:16 32:6 78:22 references 78:14,14 referencing 28:8,11,16 29:8 30:14 referring 30:4,21 68:12,12 82:1 95:7 reflected 36:20 refrain 33:22 110:20 refuse 21:19 104:15 refused 132:20,23 refusing 108:6,9 112:2,4 114:6 regard | 7:23 8:20 9:12 14:5 26:18,21 27:4 35:15 59:25 123:3 regarding 7:21 11:6 14:10 16:14 18:22 22:5 48:12 63:2 65:17 68:10 77:20 80:18 81:1 85:11 127:9 131:9 regulation 18:7,8 77:6,17,18,19 127:8 regulations 25:19 26:23 34:8 35:1 76:17,20 126:11,16 127:14 127:16 reiterate 97:23 relate 23:2 related 5:11 7:3,19 9:20 14:17 60:6,17 62:1 62:19 63:22,25 65:4 66:7 68:21 70:17 72:4,8 75:18 77:4 78:9 79:5 80:4,15 81:8 82:7,23 83:10 84:3 85:7,10,16 86:14,16 126:14,24 127:20 relatedness 72:18 relation 23:5 relations 25:1 relationship 11:19 23:6 53:20 59:13 63:21 69:9 77:21 relative 24:23 130:11 relevance | 47:25 48:5,10 49:4 49:19 relevant 39:5,7,8,10,15,23 40:17 41:13 46:7 50:7 51:15,21 rely 117:18 relying 70:5,9 71:1,2 REMEMBERED 4:1 REMOTE 1:11 remotely 4:25 removing 52:11 Renee 6:13 repeat 16:7 17:7 repeatedly 110:21 rephrase 50:20 53:5 81:24 report 3:11 7:7,11,13 9:3,18 9:20 10:1,4,6,11,12 18:14,15,19 19:5,7 19:8,10 21:10 30:1 31:16,18 32:7 36:8 36:11,20 37:3,5,13 37:15,19 39:10,19 39:24 40:24 48:20 49:5 51:20 59:24 60:2 62:16 75:25 76:15 79:19 93:17 94:17 95:19 116:25 122:4 125:22 reported 1:20 56:24 81:16,18 83:2,8,15 84:4,13 85:12,14,15 86:7 87:11,18 90:23 91:22 96:16 97:22 | 105:16 116:13,16 120:6 122:1 127:7 127:10,24,25 reporter 4:6,13 5:9,25 38:3 69:2 76:5 84:9 106:3 119:2 130:6 Reporters 130:8 reporting 85:24 100:14 107:19 115:15 reports 82:18 83:24 85:21 104:8 105:22 represent 5:15 103:25 representation 25:6 representative 16:23 represented 39:19 representing 11:15 represents 48:14 request 5:1 require 27:13 63:20 64:25 65:3 66:4,7 83:7 97:24 98:1,3 119:10 119:12 required 18:7 26:23 27:6 28:21 64:11,12 66:9 77:2 78:16 82:6 84:2 85:8 requires 66:8 75:13,16 78:4 requiring 78:7 respect 11:22 17:6,10 18:3 19:1 25:4 27:14 |
|---|--|--|---|

| | | | |
|--|--|--|--|
| 35:5 73:2 74:1 93:11 123:16 124:11 126:25 127:6 132:13 respectfully 26:6 respond 21:19 26:6 62:16 72:3 88:5 96:11,18 107:14 113:2,4 114:3,5,6,20 119:19 119:23,25 124:21 responded 107:24 116:7 117:6,6 responding 38:15 68:10 81:1 85:11,14 response 33:8 45:21 64:17 87:9 108:23,24 114:9,10 115:11,14 116:9 120:21 123:18 125:17 responses 89:17 125:21 responsibilities 11:13,17,22 12:7,18 12:24 13:3 responsibility 13:14 24:25 25:16 40:4,6 52:2 63:1 66:11 responsible 40:1 52:19 73:1 responsive 15:13 21:16 26:2,3 26:11 73:16 rest 19:5 restate 83:20 restated 77:23 retained 8:8,25 return | 86:15 revealing 105:11 review 9:3 50:17 51:11 58:2 71:8 76:3 90:4 94:4 94:5,18,19 reviewed 30:11,19 34:7 55:25 61:4,16 reviewing 62:10 revision 74:21 Rex 50:3 51:3 Ri 42:23 right 30:24 42:13 47:15 52:7 54:23 55:2 57:17 67:15,17,18 87:6 93:16 115:17 115:20,23 125:14 risk 103:7,21 107:11 108:2 road 91:15 93:9 94:1 118:17 123:10 role 18:4 92:15 95:1 roles 11:12,21 12:6,18 room 13:9 routinely 13:15 14:5 row 10:23 13:16 17:15,23 38:11 52:11 121:8 rubbing 100:23 101:17 105:21 106:9,23 107:23 112:21 115:21 118:3,20 | 120:14,19 121:7 125:6 Rule 3:11 4:12 9:18 19:7 rules 4:3,11 35:1 <hr/> S <hr/> s 17:22 safely 25:18 safety 6:19 34:21 77:12 103:6,22 105:16 Sakurada 53:1,2,9 58:3 Sakurada's 53:13 San 2:4 sat 13:9 25:23 43:21 satisfied 88:12 89:9 91:5 saw 55:20 56:15 57:5 99:25 101:1 108:21 113:9,19 118:11 122:7,7 123:4 saying 33:23 37:10 45:25 55:18 57:4,7,12 61:9,15,24 69:6 79:17 114:3 says 26:16 31:23,23 33:20 33:22 36:9 48:20 49:2 73:25 77:10 81:20 100:25 107:12,12 112:25 scenario 42:24 43:16,25 85:19 101:4 109:1 scenarios 42:22 | scene 53:24 science 6:16,18 screen 5:5 52:7 se 10:11 seat 10:23 17:15,19,23 25:24 101:9,11 seated 82:20 106:12 seats 52:14 second 82:16 85:23 86:10 116:9 section 4:11,14 10:17 29:18 36:8 130:16 132:10 sections 4:2 31:15 security 77:12 103:6 see 10:19 15:11 76:22 81:3,19,25 84:6 119:12,14 seeing 128:2 seen 5:4 54:18 100:14 112:19 121:12 126:3,4 self 87:22 send 74:21 senior 14:11,13 sent 110:18 132:10 sentence 47:19 50:13 77:23 sentences |
|--|--|--|--|

| | | | |
|--|--|--|---|
| 39:15,22 40:16 49:4 49:6,7,9,10,12 separate 101:1 108:21 114:24 116:10 125:10 126:1 separated 49:22 86:12,20 113:20 116:23 117:25 125:13 separates 65:5 separating 64:15 separation 41:1 48:24 49:18 sequence 64:10 series 113:10 serve 11:16 served 13:1 25:20 service 14:11,14,17,20,25 15:5,16,21 16:1 48:25 52:16 131:7 131:14 services 5:10,11 131:1 set 132:16,24 sets 34:25 35:4 seven 21:23 73:22 sexual 22:5 26:18,21,22 27:5,14 59:2 60:1 60:14 61:2,5,17,23 62:17 63:5,23 65:1 65:2 66:5,17,17 68:11 69:10 71:25 72:2,7 75:14,15 78:8,15,15,22,25 | 79:3 80:1,12,18 81:1,7,16,18,21,25 82:5,13,18 83:2,8 83:24 85:12,14,21 90:2,16,20,23,25 91:20 93:24 97:5,21 98:22 99:7,7,9,12 99:23,24 102:8 106:24 107:10 112:22 115:18 116:17 117:25 120:15 125:7 126:18,22,25 127:4 127:7,10,24,25 sexually 104:8 share 24:25 59:8 66:14 88:24 92:20 Shawn 50:4 51:4 shook 38:14 short 84:16 Shorthand 4:6,13 130:5 Showing 9:16 Shupe 29:3 40:18 50:3 51:3 52:1,18 58:21,24 59:18 64:12 70:11 70:14 77:1,1,20,24 81:14 Shupe's 28:23 40:5 shut 92:8 sic 31:22 33:24 41:2 side 32:8,8 33:2,2 111:7,8 sideways 90:22 sign | 12:8 Signature 3:6 129:5 signed 132:22 signing 129:1 132:19,21 similar 85:20 simple 41:23 98:20 simply 17:14,20 41:16 65:18 114:6 116:25 Simpson 2:13 5:11 Simultaneous 20:10,13,17 21:1 46:2 54:8 67:12,20 68:24 73:12,19 106:14 108:17 109:4 110:1,3 112:1 112:8 115:10 simultaneously 90:4 sir 9:22 10:2,5,20 11:18 12:19 13:8 14:1,23 15:9,21 18:11 19:3 21:17,20 22:23 23:11 24:12,15 28:5 28:16 29:8,21 30:12 32:21 35:11 37:11 39:25 48:8,20 49:19 50:10 51:17,22 55:12 56:19 62:24 69:12 72:12,19 75:19 78:11 79:8 80:17 81:9 82:12 88:7 90:19 91:10 93:7 94:9 98:7 102:3 105:13 107:16 108:25 113:22 114:10,14 114:19 119:18,25 121:5 123:15 | 125:20 127:6,22 sit 67:3 sitting 53:25 situation 59:10 70:4 85:20 86:1 93:6 96:12 102:16,20 113:24 situations 105:10 slanted 36:15,20 soda 42:24 43:1,2 sodas 46:24 sole 40:24 41:7 47:21 48:2,20 solely 24:24 25:5 71:5 76:1 somebody 15:20 68:6 someone's 13:15 son 53:15,25 son's 54:11,11 sorry 7:11 10:2 17:7 31:11 37:25 38:2 39:13 45:14 49:8,12 56:6 57:19,20,21 58:8 64:5 65:10 70:8 95:25 97:3 99:1,2 106:15 122:14 125:3 126:14 sound 44:19 67:1,3,24 73:20 sounds 115:5,6 South 2:9 |
|--|--|--|---|

| | | | |
|---|--|--|---|
| space 40:22 | stage 86:19 | 1:20 130:21 132:7 | 51:17 |
| speak 11:19 12:6 16:3 35:18 98:15 | stand 121:8,9,10 122:8 | step 86:23,24 87:7,7 91:7 91:22 100:11 104:5 | suggesting 46:12 52:24 53:8 |
| speaking 20:18,24 50:1 51:1 98:10 | standard 9:4,6 17:5,9,14 18:3 18:23 19:1,6,12,16 20:3 28:8,10,14 29:16 30:17 32:18 34:11 77:6,17 | stepping 33:22,22 88:22 110:24 124:16 | suggests 126:7 |
| speaks 14:6 | standards 27:6,10,12,21,22,25 28:1 29:5 30:2,4,11 30:14,20 31:17,21 32:9 33:7,9,16 34:4 35:4,6,8 126:12,17 126:21 127:15,17 | steps 90:12 96:18 | suitable 90:10 |
| Spear 2:4 | standing 73:25 | stood 123:9 | Suite 2:4,9 |
| specific 63:3 64:9 68:10 75:11 76:20 77:4,5 77:6,17 78:3,6,12 78:13 90:1 103:2 | start 6:25 60:8 111:12 124:10 126:19 | stop 21:8 73:8 74:12,15 74:18,19 87:5 107:5 110:15,24 121:2 | summaries 18:13 |
| specifically 9:12,14 18:16 30:21 40:16 66:12 69:8 79:19 91:24 94:8 100:2 113:5 | started 20:16 107:18 | stopping 87:16,19 | summarize 18:17 19:8 |
| specificity 79:20 | starting 80:24 | straight 101:15 117:4 | summary 18:20 |
| specifics 96:6 | state 4:2,6 5:14 6:11 17:5 17:9 18:25 23:22 38:10,15 39:7 58:21 82:4 127:17 130:2,6 132:2 | strange 79:12 | supervised 25:22,23 |
| specified 53:21 | stated 18:2 22:23 51:24 55:13 96:1 116:12 | Street 2:4,9 | supports 72:16 77:19 |
| speculating 42:13 43:15 44:12 45:1,6,16,25 46:1 46:22,25 47:5 | statement 10:21 17:4,8,12,13 39:10 47:1 49:15 50:23 | strike 16:9 24:17 29:5 47:10 70:8,13 78:5 78:24 85:8 86:5 94:16 95:15 105:7 113:25 126:15,19 | supposed 117:18 |
| speculation 47:6 | statements 37:12,13 | stroking 56:9 61:3 86:7 87:1 87:14 91:4 92:18 96:14 97:20 | sure 6:16 8:3,7 9:24 13:12 14:18 15:24 16:1 36:17 42:11,12 44:10 53:7 58:12 78:16 79:9 80:23 83:21 84:18 87:6,6 91:12 96:4 113:7 114:25 124:13 |
| spend 41:21,22 | states 1:1 4:22 17:14,21,24 17:25 19:16 27:13 35:1 40:24 | subject 16:6,16 17:1,1 | surprised 117:10 |
| spent 42:6 | stenographically | subsequent 49:21 91:17 | suspect 90:16 93:23,24 |
| spill 106:17 | | substance 35:23 80:25 | suspected 26:19,22 27:5 59:1,2 59:25 60:1 65:2 66:17,17 68:11,20 69:10 75:15 78:8,15 79:3,25 81:7 82:5 82:13 90:20 91:19 126:18,22,25 127:4 127:10 |
| spilled 113:7 | | sub-tier 15:24 | suspects 53:21 |
| spoke 53:17 | | sufficient 97:13,19 100:12 | suspended |
| ss 130:2 132:3 | | suggest | |

| | | | |
|--|--|--|---|
| 128:17 suspicion 100:6 suspicious 89:7 90:11 93:22 swear 5:25 | tasked 71:8 Technological 6:17 technology 5:1 6:20 tell 4:14 13:13 15:23 26:8 28:20 54:18 55:25 63:6 71:9 90:16 97:4 99:3 100:2,10 103:1,3 117:9 124:7 telling 88:7 100:10,13 108:10 115:12 117:20 118:10 tells 91:3 98:21 terms 30:14 63:8 85:8 105:13 testified 4:16 12:17 22:25 23:4,7,16 24:16,18 28:24 32:21 38:12 72:13,19 94:3 95:22 97:23 104:1,23 105:8,13 testify 12:12 13:3,20 14:10 75:19,21 93:8 94:12 96:2 104:11,14,15 124:5 testifying 25:8 30:7 55:19 56:13 60:4 72:24 78:25 94:15 122:13 122:21 testimony 15:7,18 16:12 25:10 36:13,18 41:4 50:17 51:11 54:19 58:3 59:1 60:25 72:16 79:8 81:10 101:21 105:24 106:1 126:1 | 130:21,23 132:7 thank 5:24 24:3,5 26:25 27:2 68:1 69:4 71:23 81:23 107:3 110:7,9 111:15 115:5 Thanks 99:19 theirs 71:18 thereof 133:1 thing 65:19 66:16 101:24 102:5 114:21 things 7:14 13:13 18:13,17 59:18 69:25 71:1 88:2 114:17 think 8:15 12:11,25 23:22 23:23 47:5,6,6 55:12 57:23 77:9 80:22 91:22 96:20 98:12,12 103:11 109:9,11,17 111:24 120:1 122:7 127:3 third 38:10 131:2,11,15 thoroughly 19:4 64:13 thought 54:14 57:24 91:11 106:10 111:20 112:6,10 thoughtfully 64:13 thousand 43:21 threat 103:22,23 105:16,17 123:12 three 5:21 49:8,12 116:5 tie | 40:8 76:23 tiers 16:3 ties 52:21 time 36:24 38:5,8 46:21 58:15,18 67:6 84:20 84:24 85:6 86:8,19 97:6 103:10,12 108:2,3 113:18 118:16 121:9,12 128:10,15 131:5 133:4 times 11:11 75:3 78:11 124:4 titled 10:17 today 11:15 76:1,16 94:15 94:18 95:20 told 60:12 61:22 63:7 94:2 96:7 106:9 113:19 114:14,19 117:13 118:18 120:8 125:6 top 21:11 touch 54:23 touched 54:22 99:22 touching 50:5 51:5 53:10 54:4 54:10,11,19 55:16 56:8,10 60:13 61:1 61:17,23 63:4 79:24 85:22 87:13 88:1,13 89:12 93:21 94:2 96:14,23,24,25 97:1 97:5 99:4,12 101:23 102:21 107:20 115:21 117:25 125:1 127:17 |
| T | | | |
| T 2:9 take 5:7 12:8 32:5,7 42:12 58:10 63:11 69:11 73:3 80:2 84:16 86:18 96:18 103:9 103:12 108:2 109:8 111:17 127:19 128:5 taken 4:25 45:12 78:19 119:15 126:15,24 128:16 talk 18:16 20:20 47:16 73:11 93:14 96:20 103:10,13 104:24 106:12 109:6,7,9,10 109:12,16,18 110:22,23 114:16 120:12 talked 102:21 117:13 118:8 120:17,18 talking 30:15,22 31:3,6,8,21 35:8 55:5,6 56:6,7 59:22 68:13 74:19 74:20 82:2,3 88:5 92:14 98:14,14 107:18 109:20,22 110:15,22 112:13 118:1 119:18 120:10 121:2 targeted 66:19 113:10 | | | |

| | | | |
|---|---|--|---|
| trafficked 93:23 | 124:13 | 61:14 64:7 66:2 | unwelcomed 93:24 |
| trafficking 26:19,23 27:5,15 59:2,25 66:18 68:20 78:14,23 90:2 | trying 38:2 46:19 55:23 67:3,24 69:12 88:15 97:5 102:11,15 109:23 122:9 126:1 | 73:7,7 88:7 96:5 114:2 122:12 | upset 124:9,15 |
| trained 11:14 13:11 24:2 27:14 78:20 102:7 102:10 105:15 116:23 118:23 | turbulence 23:21 | understanding 16:18 65:23 | U.S 34:23 35:5 |
| training 11:2 14:7 22:9,11,13 22:19 24:13 26:17 26:20 27:3 28:19,22 28:25 29:2 35:13,15 35:16,18,22,23,24 36:5,6 59:1 62:25 92:2 94:25 95:4,6,7 95:10 98:7,13,16 121:17 | turned 107:21 | Understood 46:3 | <hr/> V <hr/> |
| training/guidance/... 59:9 | two 7:14 39:14 40:16 49:4,6,7,10 60:16 62:1,18 63:21,25 64:6 66:4,5 75:13 75:18 78:7,13,21 79:4,12 80:15 81:6 82:22 83:10 84:3 85:6,9 90:1,6 92:2 98:5 105:25 110:18 118:1,8 | unfortunately 88:22 | vacation 98:8 |
| transcript 129:1 130:22 132:13 132:17,19,20,24,25 132:25 133:3 | two-year 14:3 | unit 14:16,20 | validate 98:11 |
| transpires 8:22 | <hr/> U <hr/> | United 1:1 4:22 6:22 7:1 13:2,21 14:4,11,14 14:16,20 15:20 27:13 28:20 29:4 35:1 60:12 61:21 63:20,24 64:25 65:3 66:3,7,8 68:4,9 70:5 70:9 71:2,4,15 72:5 72:15,20 75:12,20 76:13 85:19 86:2,6 91:8 92:15 93:5,10 94:6,12 95:4,13,17 95:21,23 96:2,11 98:14,21 100:7 101:3,16 102:5 103:2,20 104:6,7,11 104:16,23 105:9,12 105:20 107:15 112:21 113:2 119:18 120:25 121:3 123:21,24 124:5 | value 124:19 |
| transport 8:19 34:21,22 | Uh-huh 89:13,16,19 102:24 | United's 60:15 62:15 66:3 68:17 69:7 98:15 119:17 | veracity 52:25 |
| traveling 59:17 | ultimately 70:15 | University 6:18 | verbally 38:15 |
| treat 73:25 | umbrella 77:14 95:10 | unprofessional 46:13 111:13 | verbiage 32:24 |
| troubled 58:4 | unable 29:24 61:5 | unsafe 112:24 | verified 113:19 116:20 117:24 |
| true 41:24 47:2 121:19 130:23 | unbiased 37:9 | unwanted 117:24 | verify 118:9 |
| truth 4:14,15,15 | uncomfortable 60:15 61:24 62:8 86:9 87:3,13,19,25 88:19 89:4,11 91:5 91:25 92:5,19 96:16 | | versus 4:21 |
| try 46:21 55:3 66:21 70:2 98:10,19 103:13 119:25 | underscore 52:8 | | veteran 12:13 |
| | understand 11:12,21 33:4 34:12 36:23 39:12 48:8 50:21 53:4 57:10 | | Vickie 1:12 4:8,20 6:13 |
| | | | victim 64:1 65:5 79:1 81:8 81:18,22 82:8,24 83:3,8,15 90:25 92:5 102:8 104:2,3 115:21 116:18 117:23 118:24 121:14 |
| | | | video 5:6 |
| | | | videoconference 2:2,7,12 4:7 |
| | | | videographer 2:13 4:17 5:10,20,24 6:4 38:4,7 58:14,17 |

| | | | |
|--|--|--|--|
| 84:15,16,19,23 128:11,14 VIDEO-RECORD... 1:11 view 15:25 viewing 37:7 violated 104:8 violates 28:15 29:16 virtual 5:1 virtue 4:13 VOLUME 1:13 vs 1:5 | watched 43:22 water 38:17 58:11 121:4 way 33:18,21 36:15,20 39:15 46:13 54:22 54:23 56:18 61:7 71:17 81:15 82:17 83:6 88:16,23 92:6 92:11 97:4 98:24 108:10 109:1 119:22 126:6 ways 123:14 weather 58:9,10 Wednesday 1:16 4:4,18 weird 102:23 went 11:2 56:23 92:8 125:8 we'll 16:1 57:14,16 65:21 82:16 86:23 105:6 we're 4:17 20:20 21:18 27:22,25,25 38:5,7 58:15,17 73:13,22 79:9 84:20,24 86:17 86:17 87:7,16 90:19 90:21,22 92:14 93:14 95:7,9 98:12 98:13,14 109:8 115:5,6 120:10,11 121:4 125:5,23 128:15 we've 30:24,25 116:5 whoa 73:8,8,8 wide-flight 103:5 wiping | 106:17 witness 3:11 4:9 5:5 6:1,2,24 9:16,18 12:2,16 13:8 14:1,13 15:8 15:19 19:19 20:6 21:25 22:22 23:10 26:9,11 27:8 32:11 36:10,24 39:18 40:21 42:2,16 43:20 44:17 45:5 50:19 53:4,12 54:7,9 55:12 56:18 57:7,10 60:24 62:5,6,22 65:14 68:25 72:12 74:1,4,8,8,14,16 76:8 77:8 79:8 80:7 80:17 82:11 83:19 83:22 94:9 96:1 100:9 102:3 105:15 108:9 112:2 113:4 114:9 115:11 118:15 119:3,22 121:2,24 123:24 124:25 125:20 127:2,22 128:9 131:9,14 witnessed 56:1 87:13 91:20 115:15 witnesses 50:17 witnessing 120:7 word 61:5 69:14 work 11:11 28:21 116:14 worked 8:10 works 23:6 world 25:7 108:11 126:6 worried 120:16 | wouldn't 14:2 41:24 43:10 56:12 88:21 written 49:14 132:9 wrote 9:2 <hr/> X <hr/> X 72:25 <hr/> Y <hr/> yeah 10:16 13:11 36:24 38:1,1 44:22 49:12 83:19 97:10 105:3 107:22 109:22 112:12 123:4 124:2 years 8:15 11:10 13:1 17:15 25:16 30:7 33:3 44:18 54:24 94:10 106:23 125:23 young 44:21 <hr/> Z <hr/> Zoom 2:2,7,12 4:7 <hr/> 1 <hr/> 1 3:11 4:19 9:17,18 21:10 36:8 84:20 1:22 128:15 10 10:21 16:11 17:5,9 17:20,23,25 18:1,2 18:22,25 19:12,16 19:23 20:2 10:02 4:18 10:08 |
|--|--|--|--|

| | | | |
|---------------------|---------------------|----------------------|--------|
| 84:22 | 2 | 30,000-foot | 2:4 |
| 10:17 | 21:11 37:24 84:24 | 15:25 | 941574 |
| 84:22 | 2.0 | 30-year | 1:23 |
| 10:48 | 36:8 | 12:5,12 13:9,20 14:2 | |
| 38:5 | 2:19-cv-01322 | 22:14 95:5 | |
| 10:51 | 1:3 | 312-345-0700 | |
| 38:8 | 2:19-cv-01322-KJ... | 2:10 | |
| 11 | 4:24 | | |
| 22:3 | 20 | 4 | |
| 11:22 | 2:9 125:24 | 434-531-9569 | |
| 58:15 128:16 | 201 | 2:5 | |
| 11:27 | 2:4 | 6 | |
| 58:18 | 2023 | 6 | |
| 11:45 | 1:16 4:4,19 | 3:4 | |
| 128:18 | 2025.320 | 60603 | |
| 1100 | 4:11 130:18 | 2:10 | |
| 2:4 | 2025.320(a)) | 7 | |
| 112 | 130:13 | 7 | |
| 35:1 | 2025.320(b)) | 80:25 | |
| 12 | 131:6 | 8 | |
| 44:18 106:23 | 2025.320(c)) | 8 | |
| 12-year-old | 131:17 | 1:16 4:19 80:25 | |
| 44:12 112:22 113:17 | 2025.520(a) | 8th | |
| 118:4 | 132:10 | 4:4 | |
| 12:08 | 2025.520(e)) | 8:02 | |
| 84:20 | 132:1 | 4:5 | |
| 12:17 | 2025.540(a)) | 8:48 | |
| 84:24 | 130:19,24 | 38:6 | |
| 121 | 2067 | 8:51 | |
| 8:19 25:2,17 94:10 | 24:6 | 38:6 | |
| 95:12 | 2093(b) | 8016 | |
| 129 | 4:14 130:16 | 130:9 | |
| 3:6 | 22 | 9 | |
| 13 | 54:24 | 9 | |
| 10:17 | 2500 | 3:11 | |
| 13751 | 2:9 | 9/11 | |
| 1:21 130:7 | 26 | 88:23 124:17 | |
| 14 | 3:11 9:18 19:7 | 9:22 | |
| 24:6 | 26th | 58:16 | |
| 15 | 7:2 | 9:27 | |
| 17:15 26:16 28:18 | 3 | 58:16 | |
| 29:8,13 | 30 | 94105 | |
| 1995 | 4:12 11:10 13:1 | | |
| 7:2 | 25:16 33:3 94:10 | | |
| 2 | 125:23 | | |

1 A P P E A R A N C E S

2

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16

17

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19

20

21

22

23

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25

1 I N D E X

2

3 WITNESS: CAPTAIN VICKIE NORTON

4

5 PAGE

6 By Mr. Maye 137

7 By Mr. McKay 273

8 By Mr. Maye 284

9

10

11

12 E X H I B I T S

13

14 EX. DESCRIPTION PAGE

15 Exhibit 2 Video presentation regarding 158
Blue Light Initiative

16

Exhibit 3 Deposition transcript of 181
Captain Shupe

18

19

20

21

22 INFORMATION TO BE SUPPLIED:

23 (None)

24

25

1 Videoconference Deposition, Wednesday, March 8, 2023

2

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+ + + + +

4

5

VICKIE NORTON,

6

having been previously sworn by the reporter, was

7

examined and testified as follows:

8

9

THE VIDEOGRAPHER: Good afternoon. We're

10

back on the record at 1:53 p.m., and this marks the 1:53PM

11

beginning of Media Number 3. I am the videographer,

12

Jesse Navarro, and the court reporter is Ruben Garcia.

13

Counsel may proceed.

14

15

EXAMINATION

1:53PM

16

BY MR. MAYE:

17

Q Captain, is there industry standard or

18

standard of care regarding how a captain is supposed

19

to respond to a passenger who reports being sexually

20

assaulted?

1:53PM

21

A An industry standard? Well, the

22

standard, we follow the protocol for what the flight

23

attendant's procedures are. If there's a report of

24

actual sexual misconduct, unwanted sexual touching,

25

et cetera, then we follow the procedures outlined in 1:54PM

1 the flight attendant's operations manual; flight 1:54PM
2 attendant manual.

3 Q So you're not aware of any federal
4 regulation or industry standard or standard of care
5 other than what's in the United flight attendant 1:54PM
6 manual as to responding to sexual assault report by a
7 passenger?

8 MR. MCKAY: Objection to the form.

9 THE WITNESS: Again, sir, I didn't state the
10 United flight attendant manual. I just stated the 1:55PM
11 effective airline's flight attendant manual. I mean,
12 if there's a physical assault, and that's what has
13 been determined, then we can go down the road of
14 actual something that's been reported as a physical
15 assault. 1:55PM

16 BY MR. MAYE:

17 Q Are you aware of any industry standard
18 or standard of care, other than what's -- strike that.

19 Are you aware of any federal
20 regulations regarding how a captain is required to 1:55PM
21 respond to reported sexual assault?

22 A As in a specific Federal Aviation
23 Regulation with a number 121.55 kind of thing?

24 Q Correct.

25 A I am not aware of that. 1:56PM

1 Q Are you aware of an industry standard 1:56PM
2 regarding how a captain is supposed to respond to
3 sexual assault that is reported by a flight attendant?

4 A We'd have to break that -- I'm not sure
5 I understand. So a flight attendant reports to have 1:56PM
6 observed a sexual assault?

7 MR. MAYE: Court Reporter, can you read back
8 my question.

9 (Record read as follows:

10 "Question: Are you aware of 1:56PM
11 an industry standard regarding how
12 a captain is supposed to respond
13 to sexual assault that is reported
14 by a flight attendant?")

15 THE WITNESS: Again, my question, sir, is 1:56PM
16 the flight attendant reports a sexual assault to me,
17 meaning the report was made by a passenger and now the
18 flight attendant is reporting it to me?

19 BY MR. MAYE:

20 Q Yeah, let's start with that one. It is 1:57PM
21 the same as a passenger reporting it, but I guess we
22 can -- I'm fine with that. So are you aware of an
23 industry standard or a standard of care regarding how
24 a captain is supposed to respond to a sexual assault
25 that was reported by a passenger to a flight attendant 1:57PM

Page 140

1 and the flight attendant comes to the captain and 1:57PM
2 notifies the captain of the passenger's report of
3 sexual assault, are you aware of a standard of care or
4 industry standard and how a captain is supposed to
5 respond? 1:58PM

6 A Yeah, and so that I can answer it
7 properly, is it reported and verified and the flight
8 attendants have acted already in accordance with their
9 protocol and that's what's being reported to me?

10 Q I'll stick with the question that I 1:58PM
11 asked.

12 A Well, unless I get clarification on my
13 question, I'm not really able to answer you. I can
14 tell you more if you give me more information to act
15 on. 1:58PM

16 Q No. I think the question is
17 sufficient. So is your answer you don't know?

18 MR. McKAY: Objection to the form.

19 THE WITNESS: My answer is if it's --
20 there's two different -- there's two different roads 1:59PM
21 to go down. That it has been reported to the flight
22 attendant and the flight attendant has already acted
23 to rectify it, or the flight attendant is somehow
24 ambiguous about the report and is looking for
25 guidance? I mean, there's not one way to answer the 1:59PM

Page 141

1 question of it being reported without knowing what 1:59PM

2 else has happened.

3 BY MR. MAYE:

4 Q Is there an industry standard or a
5 standard of care regarding how a captain is supposed 1:59PM

6 to respond to a flight attendant who suspects human

7 trafficking is occurring on the flight?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: The standard is to refer the
10 flight attendant to their specific training with 1:59PM

11 regard to human trafficking and ensure that they have

12 gone through the protocol as to their training

13 policies and procedures for suspected human

14 trafficking.

15 BY MR. MAYE: 2:00PM

16 Q Is there a federal regulation that
17 you're relying on to answer that question?

18 A Not that I'm aware of.

19 Q Is there a standard of care or an
20 industry standard regarding how a captain responds to 2:00PM

21 a flight attendant reporting to the captain that the

22 flight attendant observed what she or he considered to

23 be a sexual assault?

24 MR. McKAY: Objection to the form.

25 THE WITNESS: I can't differentiate that 2:01PM

Page 142

1 question from the one that you asked prior, and I've 2:01PM
2 already answered. Sexual assault, reported an
3 actual -- if we're talking about assault, we have to
4 be really careful with our adjectives. So sexual
5 misconduct. Assault crosses over into different 2:01PM
6 actions. And once again, is it being reported as
7 witnessed or has it been verified?

8 BY MR. MAYE:

9 Q Well, I'll stick with my question.

10 A I'll stick with my answer. 2:01PM

11 MR. McKAY: I'll stick with my objection.

12 BY MR. MAYE:

13 Q Is there a standard of care or an
14 industry standard regarding how a captain responds to
15 a report by another passenger that he or she observed 2:02PM
16 a sexual assault?

17 MR. McKAY: Objection to the form.

18 THE WITNESS: I don't believe there's an
19 industry standard. I believe what would happen is the
20 passenger would report his or her observations, 2:02PM
21 perception, to a flight attendant, and it would go
22 from there, which would take us back to where we just
23 were, I would assume. I mean, the only way for
24 another passenger to report, quote/unquote, would be
25 to tell a flight attendant. 2:02PM

Page 143

1 BY MR. MAYE:

2:03PM

2 Q As a captain with United Airlines, if
3 you -- if it is reported to you by a flight attendant
4 that a passenger has reported being sexually
5 assaulted, is there an industry standard or a standard 2:03PM
6 of care regarding how you are supposed to respond to
7 that reported sexual assault?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: The standard is the policies,
10 procedures, protocol listed in the flight attendant 2:03PM
11 manual. I make sure that I ensure that the flight
12 attendants have followed them and then I go from
13 there.

14 BY MR. MAYE:

15 Q And you're not willing to discuss the 2:04PM
16 substance of the United Airlines policy with respect
17 to responding to sexual assault --

18 MR. McKAY: Objection to the --

19 BY MR. MAYE:

20 Q -- is it fair to say? 2:04PM

21 MR. McKAY: Objection to the form. She's
22 testified that she's not at liberty to do so.

23 BY MR. MAYE:

24 Q You can answer, ma'am.

25 A I'm not at liberty to do so. 2:04PM

1 Q Does United know that you're testifying 2:04PM
2 in this case as an expert?

3 A What do you mean, does United know that
4 I notify them?

5 Q Yes. 2:05PM

6 A I'm not required to. United is aware
7 that I provide expert testimony and witnessing, and I
8 have since January of 2009. I have a -- I have
9 permission to have outside employment. They
10 understand the scope of that. And what I am limited 2:05PM
11 to is nothing that involves United Airlines or
12 anything that would be a conflict of interest for me.
13 So they are not specifically aware that I'm testifying
14 in this case nor do they need to be.

15 Q So in this case, your opinions on 2:05PM
16 how -- strike that.

17 Your opinions on how you would respond
18 to a suspected sexual misconduct is based on the
19 United flight attendant manual. Is that fair?

20 MR. McKAY: Objection. 2:06PM

21 THE WITNESS: No, it's not fair, sir.

22 BY MR. MAYE:

23 Q Then maybe I missed something. So as a
24 United pilot, is there an industry standard or
25 standard of care regarding how you respond to a report 2:07PM

Page 145

1 of sexual misconduct that you received from a flight 2:07PM
2 attendant who witnessed a sexual -- witnessed sexual
3 misconduct committed by one passenger on another?

4 MR. McKAY: Objection to the form.

5 THE WITNESS: I've answered that at least 2:07PM
6 four times, sir. There's no different answer than the
7 one I've already given you.

8 BY MR. MAYE:

9 Q I thought you said it was based on the
10 United flight attendant manual. 2:07PM

11 MR. McKAY: Objection to the form.

12 BY MR. MAYE:

13 Q And you just said, "No, that's not
14 true."

15 MR. McKAY: Objection to the form. 2:07PM

16 THE WITNESS: You continue to ask me
17 questions that start with, "As a United pilot," and I
18 continue to reinforce the fact that I'm not here to
19 talk about United policies and procedures. I'm here
20 to talk about Frontier's policies and procedures, 2:08PM
21 which I have methodically delineated in my report and
22 which form the basis for my opinion about what
23 happened on this flight.

24 BY MR. MAYE:

25 Q As a captain, is there any industry 2:08PM

Page 146

1 standard or standard of care that dictates how a 2:08PM
2 captain responds to reported sexual misconduct
3 committed by one passenger on another?

4 A It's the same answer I've already given
5 you, sir. 2:09PM

6 MR. McKAY: Objection to form.

7 BY MR. MAYE:

8 Q And what is that?

9 A I ensure that the flight attendants
10 follow the training, policies and procedures provided 2:09PM
11 in their flight attendant manual. And when that has
12 been accomplished, I take the situation from there.

13 Or captain -- I'm sorry. I misspoke. Not I. The
14 captain in question would then proceed from there.

15 Q And is there -- okay. Strike that. 2:09PM

16 And you're not aware of a specific
17 federal regulation or standard of care regarding how a
18 captain is supposed to respond to reported sexual
19 assault or sexual misconduct?

20 MR. McKAY: Objection to the form. 2:09PM

21 THE WITNESS: A Federal Aviation Regulation,
22 I am not.

23 BY MR. MAYE:

24 Q Are you aware of any standard of care
25 regarding how a captain is supposed to respond to 2:10PM

Page 147

1 reported sexual misconduct or sexual assault? 2:10PM

2 MR. McKAY: Objection to the form.

3 THE WITNESS: It's the same question, and I

4 have the same answer that I've repeatedly provided

5 you, sir. 2:10PM

6 BY MR. MAYE:

7 Q Is that, the captain is supposed to
8 ensure that the flight attendant follows the flight
9 attendant manual of the particular air carrier?

10 A Well, yeah. But you also kind of threw 2:10PM
11 in sexual misconduct and sexual assault, and I
12 repeatedly tried to differentiate, when you use the
13 word "assault," whether it's physical, sexual or -- I
14 mean, "assault" in general takes us into a different
15 set of protocol. So it's really not a fair question 2:10PM
16 to lump "reported sexual misconduct" and "assault"
17 into the same conceptual question.

18 Q So you see a difference between
19 reported sexual assault and reported sexual
20 misconduct? 2:11PM

21 A It's not what I see, sir. I didn't
22 develop these policies, procedures or vernacular.
23 "Assault" is not the same thing as "misconduct" in our
24 world.

25 Q What's the difference in your world? 2:11PM

1 A A physical assault is dealt with as a 2:11PM
2 threat to an individual's personal safety and
3 security. Misconduct may not rise to that level,
4 would be my best answer.

5 Q If a passenger was rubbing the genitals 2:12PM
6 of another passenger without consent, would that fall
7 under sexual assault or sexual misconduct?

8 A I didn't write the rules, sir. I don't
9 know. It would depend on what the passenger reported
10 to the flight attendant was occurring and to what 2:12PM
11 degree.

12 Q So just to be clear, in your
13 perspective, sexual misconduct is an act that is not
14 as severe as sexual assault?

15 MR. McKAY: Objection to the form. 2:12PM

16 THE WITNESS: Sir, I didn't write the policy
17 or procedure. What I'm trying to share is an
18 interpretation of how I read it. I believe there's
19 probably a wide, an A to Z. It could be, I would
20 imagine one moment of unwanted touching all the way to 2:13PM
21 something that would constitute assault, and anything
22 in between, subject to the victim's interpretation of
23 what happened.

24 BY MR. MAYE:

25 Q Does the victim's interpretation of 2:13PM

Page 149

1 what happened dictate how a captain is supposed to 2:13PM
2 respond to a reported sexual assault?

3 MR. McKAY: Objection to the form.

4 THE WITNESS: I don't fully understand your
5 question, sir. 2:14PM

6 BY MR. MAYE:

7 Q Say a flight attendant observed a woman
8 being rubbed by a male passenger. And the flight
9 attendant determined it was inappropriate and
10 constituted sexual assault or sexual misconduct. And 2:14PM
11 the victim said, "No, no, no. It's all right. He
12 just did it once and it's okay."

13 MR. McKAY: Objection to the form.

14 BY MR. MAYE:

15 Q When the passenger said that to the 2:15PM
16 flight attendant and relayed that to you, would you
17 then decide that nothing needed -- no action needed to
18 be taken?

19 MR. McKAY: Objection to the form.

20 THE WITNESS: I mean, are we starting -- is 2:15PM
21 this completely another different hypothetical that
22 we're starting here?

23 MR. MAYE: It is, yeah.

24 THE WITNESS: Because, again, we are back to
25 the problem of flight attendants reporting sexual 2:15PM

1 misconduct on behalf of a victim, when that is not the 2:15PM
2 protocol.

3 BY MR. MAYE:

4 Q I've given you my hypothetical.

5 MR. McKAY: You have to give her a set of 2:15PM

6 protocols too to apply to the hypothetical. This is

7 the problem we ran into with the other expert,

8 Ms. Lord-Jones. You keep asking hypotheticals that

9 aren't tied to any particular protocol. So how can

10 she tell you how she would apply the protocol if she 2:16PM

11 doesn't know what it is?

12 BY MR. MAYE:

13 Q So Captain, as the PIC, if a flight

14 attendant tells you that she observed a male passenger

15 groping a female passenger, and she has determined a 2:16PM

16 sexual assault has been committed, is there a standard

17 of care that dictates how you are supposed to respond

18 to that situation?

19 MR. McKAY: Objection to the form.

20 THE WITNESS: We're back to the pre-lunch 2:16PM

21 break hypothetical, except now it's a male and a

22 female versus an adult and a child, and it's the same

23 question. It's reported that she observed it, and I

24 have no more information than that. So again, I would

25 start down the road of asking probing questions to 2:17PM

Page 151

1 ascertain her perception. What she exactly saw. 2:17PM

2 Everything I answered with respect to the adult and
3 child previously, we've just substituted a man and a
4 woman now.

5 BY MR. MAYE: 2:17PM

6 Q And is that -- what dictates your
7 response, is that based on a federal regulation, an
8 industry standard, or the air carrier's manual?

9 MR. McKAY: Objection to the form.

10 THE WITNESS: What dictates my response is 2:17PM
11 my responsibility as pilot in command to ensure that
12 the flight attendants have acted in accordance with
13 their training, procedures and protocol, follow the
14 guidance and training they've been given, and are now
15 reporting to me where they are in that process. 2:18PM

16 BY MR. MAYE:

17 Q So just to clarify, I asked you if
18 there is a standard of care or industry standard on
19 how to respond to a report that a female passenger was
20 groped by a passenger, and you said this is what you 2:18PM
21 would do.

22 Is that the standard of care?

23 MR. McKAY: Objection to the form.

24 THE WITNESS: The standard of care, my
25 standard of care, is to ensure that my flight 2:18PM

1 attendants have followed their training, procedures 2:18PM
2 and protocol with respect to the report they received.

3 And then when I'm convinced of that and
4 we have discussed everything surrounding that, then my
5 standard of care is to go from there and take whatever 2:19PM
6 next steps are necessary.

7 BY MR. MAYE:

8 Q Is your standard of care based on a
9 federal regulation or an industry standard of care?

10 MR. McKAY: Objection to the form. 2:19PM

11 THE WITNESS: If it makes it easier, there
12 is no Federal Aviation Regulation, per se, that I am
13 aware of, as I have answered multiple times now,
14 dealing with the context in which you're asking these
15 questions, other than that I am the pilot in command 2:19PM
16 and exercise overall command authority and am
17 responsible for the flight attendants following their
18 procedures and protocol.

19 BY MR. MAYE:

20 Q Is there a standard of care applied by 2:19PM
21 the industry with respect to how a captain is supposed
22 to respond to a report by a flight attendant of a
23 sexual assault observed?

24 MR. McKAY: Objection to the form.

25 THE WITNESS: I once again cannot 2:20PM

1 differentiate that question from the same question 2:20PM
2 asked multiple times before, and I don't have a
3 different answer.

4 BY MR. MAYE:

5 Q With respect to responding to a flight 2:20PM
6 attendant coming up to you saying, "Hey, I saw a
7 passenger, male passenger, grope a female passenger,
8 and I'm convinced it's a sexual assault. I'm
9 concerned, but the female passenger told me that I
10 shouldn't have to worry about it and the guy is not 2:20PM
11 going to do it again," the fact that the female
12 passenger told the flight attendant that it wouldn't
13 happen again and not to worry about it, is that
14 something that would change your analysis or your
15 approach to responding to that reported sexual 2:21PM
16 assault?

17 MR. McKAY: Objection to the form.

18 THE WITNESS: I would proceed as I've
19 previously described. I would work with the flight
20 attendant through their procedures and protocol, make 2:21PM
21 sure it had been -- all the necessary steps had been
22 taken and make a decision about how to proceed from
23 there.

24 BY MR. MAYE:

25 Q And -- 2:21PM

1 MR. McKAY: Is "And" the question?

2:22PM

2 Objection to the form.

3 BY MR. MAYE:

4 Q In this case if Captain Shupe had asked

5 if the plaintiffs were related, and you were told yes, 2:22PM

6 would he still have grounds to separate A.D. from

7 DelVecchia?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: I don't understand the

10 question. I mean, it would have given him more 2:23PM

11 information about the nature of their relationship. I

12 don't know that he ever determined that he had grounds

13 to separate them.

14 BY MR. MAYE:

15 Q So are you saying that -- strike that. 2:23PM

16 You testified that after Captain Shupe

17 learned about the facial stroking that concerned

18 flight attendant Chelsie Bright Sakurada, Captain

19 Shupe should have asked about whether the plaintiffs

20 were related. Is that fair? 2:24PM

21 A I believe I testified that that was

22 certainly one of a number of actions he could have

23 taken to gather more information.

24 Q And if all the actions, the additional

25 actions that you say that he should have taken were 2:24PM

1 satisfied, and he believed that the facial touching 2:24PM
2 and hand on the crotch posed a potential threat to
3 A.D., and if that separation was necessary and
4 required, do you believe that if he had learned that
5 the plaintiffs were related, that he would not have 2:25PM
6 grounds or he would not be required, there would be no
7 basis for him to direct that A.D. be separated?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: You're going to have to
10 restate that. Too compound. Sorry. 2:25PM

11 MR. MAYE: Okay. I'll restate it.

12 BY MR. MAYE:

13 Q If Captain Shupe, after he had spoken
14 to flight attendant Bright Sakurada, and after he
15 spoke with all the other flight attendants about the 2:26PM
16 separate inappropriate touching observed by them, do
17 you believe that his learning or his inquiring about
18 their relationship, whether they're related or not,
19 was a dispositive piece of information, that had he
20 known that, he would not have separated A.D.? 2:26PM

21 MR. McKAY: Objection to the form. Also
22 assumes facts not in evidence.

23 THE WITNESS: Well, I think we're sort of
24 lumping -- every time you say when the Captain learned
25 of the facial touching, that was the first piece of 2:27PM

1 information. And to be clear, the materials I've 2:27PM
2 reviewed don't suggest that all four flight attendants
3 witnessed the inappropriate touching, if you will.
4 Miss Chelsie Bright reported the facial touching, and
5 Scott Warren reported the hand on or near the crotch, 2:27PM
6 various versions of that. But the other two flight
7 attendants testified to not observing either of those
8 things. So it's not all of the flight attendants.
9 And there's a chronology problem with what happened in
10 between the report of the facial touching and then 2:27PM
11 Scott Warren's subsequent report.

12 So if I'm able to answer your question,
13 it would have to start with, what would be done after
14 the report of the facial touching and then go from
15 there. 2:28PM

16 BY MR. MAYE:

17 Q Why would it make a difference, if at
18 all, if Captain Shupe had learned that plaintiffs were
19 father and son, in terms of what his duties and
20 responsibilities were in responding to the reported or 2:28PM
21 suspected sexual misconduct?

22 A The first thing Captain Shupe was
23 reported was not sexual misconduct. It was Chelsie
24 Bright's interpretation that somehow the facial
25 touching was inappropriate. So at that point the 2:29PM

1 closest protocol that I can imagine might be on her 2:29PM
2 mind, and what she testified to in her deposition, is
3 that human trafficking, they're always on the alert,
4 they're always on the lookout for human trafficking.
5 So assuming that that might have been what was in her 2:29PM
6 mind, there is a protocol that Captain Shupe could
7 have asked to see and requested that Ms. Bright follow
8 through with in order to gain more information at that
9 point in the flight, which was prior to Scott Warren's
10 report. They all didn't come in at the same time. So 2:29PM
11 yeah, just that.

12 Q Are you familiar with the Blue Light
13 Initiative?

14 A I'm sorry. Say it again.

15 Q Are you familiar with the Blue Light 2:30PM
16 Initiative?

17 A I have heard it mentioned, not in
18 context to this matter, but I believe it has to do
19 with combating human trafficking, but I can't speak to
20 it, and I may be wrong about that. I've heard the 2:30PM
21 term.

22 MR. MAYE: I'm showing the witness what has
23 been marked as Exhibit 2, which is a video
24 presentation regarding the Blue Light Initiative.

25 2:31PM

1 (Deposition Exhibit 2 was marked for 2:31PM

2 identification.)

3 (Video plays.)

4 BY MR. MAYE:

5 Q Do you know whether United teaches its 2:32PM

6 flight attendants that human traffickers can involve

7 family members?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: Sir, I'm not going to respond

10 to anything with regard to United policies or 2:32PM

11 procedures.

12 BY MR. MAYE:

13 Q Would you agree that air carriers are

14 required to train their crew members that human

15 trafficking can involve family members? 2:32PM

16 A I don't possess that knowledge.

17 MR. McKAY: Brian, can I just ask what just

18 happened on screen? Do we have an Exhibit 2? Was it

19 meant to have been played? What's going on?

20 MR. MAYE: Oh, I'm sorry. Hold on. 2:32PM

21 BY MR. MAYE:

22 Q Can you see that? Can you see that

23 video on the screen, ma'am?

24 A I can see the video, yes.

25 Q Have you ever reviewed the portion of 2:33PM

1 the video I'm about to play? It's from two minutes 25 2:33PM
2 seconds to two minutes 50 seconds. Let me just get
3 this right. So I'm going to play a video from 2:25 to
4 2:50. And I'm going ask that you review it.

5 (Video plays.) 2:34PM

6 BY MR. MAYE:

7 Q Have you ever seen the content that I
8 just showed you?

9 A In all honesty, I can't tell you. We
10 receive some quarterly training, as I mentioned 2:34PM
11 earlier, and it's computer-based training. There is a
12 module that speaks to suspected human trafficking.
13 It's primarily directed towards the flight attendants,
14 but we all receive it. I don't know if that
15 particular video is part of it or not. It's been some 2:35PM
16 time since I've taken that module. So in all honesty,
17 I can't tell you.

18 Q Are air carriers, if you know, are air
19 carriers instructed that its crew should report
20 suspected human trafficking immediately? 2:35PM

21 A I don't know other than the training.
22 I mean, it follows that that would be part of the
23 flight attendant protocol. And in fact, it is for
24 Frontier. But I don't know. I would suspect so.

25 Q So you don't know what the industry 2:35PM

1 standard is with respect to reporting suspicions of 2:35PM
2 human trafficking?

3 MR. McKAY: Objection to the form.

4 THE WITNESS: I would suspect that the,
5 quote/unquote, industry standard is the same as what's 2:36PM
6 listed in Frontier's directive to their flight
7 attendants through their in-flight flyer.

8 BY MR. MAYE:

9 Q You said you suspect. But do you know?

10 A I don't know. 2:36PM

11 Q Do you know if the Blue Light
12 Initiative dictates that when human trafficking is
13 suspected, the flight attendants first must establish
14 that the adult and child are not related?

15 MR. McKAY: Objection to the form. 2:36PM

16 THE WITNESS: I have no information, as I
17 previously testified to about the so-called Blue Light
18 Initiative.

19 MR. McKAY: Mr. Maye, you had another expert
20 that was thoroughly familiar with this that you didn't 2:37PM
21 ask any questions of about this. But this is not the
22 expert who has studied the Blue Lightning Initiative.

23 BY MR. MAYE:

24 Q Do you believe that one family member
25 can traffic another family member? 2:38PM

Page 161

1 MR. McKAY: Objection to the form. 2:38PM

2 THE WITNESS: I have no opinions about that,
3 sir.

4 BY MR. MAYE:

5 Q Do you believe that sexual misconduct 2:38PM
6 by one family member against another can occur?

7 MR. McKAY: Objection to the form.

8 THE WITNESS: In general can sexual
9 misconduct occur between family members?

10 MR. MAYE: Yes. 2:38PM

11 THE WITNESS: I have heard of such cases.

12 BY MR. MAYE:

13 Q If you received a report from a flight
14 attendant that they observed what they perceived
15 to be a sexual assault, and then the flight attendant 2:38PM
16 told you that they believed that the two passengers
17 involved were related, would that cause you to not
18 inquire any further or to not take action with respect
19 to the reported sexual assault?

20 MR. McKAY: Objection to the form. 2:39PM

21 THE WITNESS: Again, sir, there was a lot in
22 that question. The word "assault" versus
23 "misconduct," report, whether it was verified or not,
24 I can't glean any material difference between that
25 question and ones I've answered numerous times now. 2:39PM

1 BY MR. MAYE:

2:39PM

2 Q So you're refusing to answer that
3 question?

4 MR. McKAY: Brian, please.

5 THE WITNESS: I'll answer it the same way

2:39PM

6 I've answered it all morning.

7 MR. MAYE: Okay.

8 THE WITNESS: If it was a report of sexual

9 misconduct or a sexual assault just from a flight

10 attendant, and a passenger had not notified the flight

2:40PM

11 attendant of that, it was just a flight attendant

12 observation, same answer as before, I would ask to see

13 their protocol, ask what they suspected, and we would

14 have a conversation about next steps and how to garner

15 more information.

2:40PM

16 BY MR. MAYE:

17 Q And after you did that, it was learned

18 that the passengers were related, would your inquiry

19 stop at that point?

20 MR. McKAY: Objection. Form.

2:40PM

21 THE WITNESS: I don't know what I've learned

22 with the "after that." It would depend on what kind

23 of information was obtained after the initial report

24 and my directive to go through the protocol. It would

25 first depend upon what was learned from that

2:41PM

Page 163

1 investigation. I suspect if that was followed 2:41PM

2 properly, and in accordance with procedures, it would

3 be revealed whether or not the two individuals in

4 question were related.

5 BY MR. MAYE: 2:41PM

6 Q And why is that important, if they're

7 related, in your analysis?

8 A I didn't say that it was. I said it

9 would likely be revealed. If we're going to stick

10 with the facts at hand and what's being investigated 2:41PM

11 in this matter, initial report was "facial touching."

12 Why would that be important? Well, if it was revealed

13 that Peter and A.D. were in fact father and son, it

14 would shed light on the nature of their relationship

15 and perhaps allow a different perspective into what 2:41PM

16 was being observed.

17 Q And based on all the facts that you

18 observed and reviewed, had Captain Shupe learned

19 before directing that A.D. be separated, had he known

20 they were father and son -- strike that. I'll move 2:42PM

21 on.

22 I'm missing page 2. That's odd.

23 MR. McKAY: I don't know where this copy

24 came from. I have a complete copy. But you talked

25 about page 2 earlier. 2:44PM

Page 164

1 MR. MAYE: So strange.

2:44PM

2 THE WITNESS: We actually had page 2 up
3 earlier.

4 MR. MAYE: There it is. I don't know.

5 That's weird.

2:44PM

6 BY MR. MAYE:

7 Q The last paragraph on page 2, "These
8 critical omissions by the PIC, as clearly the
9 knowledge that Peter DelVecchia and A.D. shared a
10 surname and were, in fact, father and son would have
11 shed a completely different light on the allegation of
12 inappropriate touching and borne out the fact that it
13 was a simple consensual and loving expression of
14 parental comfort."

2:45PM

15 So are you saying that had the flight
16 attendants and Captain Shupe known that the Captain
17 and -- I'm sorry, that Mr. DelVecchia and A.D. were
18 father and son, that the captain and flight attendants
19 would have viewed the perceived inappropriate touching
20 as appropriate?

2:46PM

21 A I think my report speaks for itself. I
22 think it clearly, at the initial report from Chelsie
23 Bright, that there was facial touching, and she
24 perceived it to be inappropriate, instead of doing any
25 further research or asking any questions, had she been

2:46PM

1 made aware that they were father and son, then perhaps 2:46PM
2 she could have looked at it through a different lens.
3 Perhaps he was a frightened flyer. Perhaps he didn't
4 like to be on an airplane and his father was
5 comforting him. I mean, there are a myriad other 2:46PM
6 perceptions she might have allowed herself to reach in
7 light of that knowledge.

8 Q Would you agree that you're speculating
9 regarding the potential impact on Chelsie Bright
10 knowing that they were father and son? 2:47PM

11 MR. McKAY: Objection to the form of the
12 question.

13 THE WITNESS: I would say that even Captain
14 Shupe in his own deposition testified to the same, and
15 he's the critical decision-maker. So at the end of 2:47PM
16 the day, it really doesn't matter what Ms. Bright's
17 perception was if Captain Shupe had known and had been
18 made aware of the fact. And he so testified in
19 accordance with that.

20 BY MR. MAYE: 2:47PM

21 Q Okay. So I'm sorry. I don't believe
22 you answered my question. My question is, would you
23 agree that you're speculating when you stated that
24 Chelsie Bright's perception of the facial stroking may
25 have been different had she known of the relationship 2:48PM

1 between Mr. DelVecchia and A.D.?

2:48PM

2 MR. McKAY: Objection to the form.

3 THE WITNESS: I don't know. Yes, I don't

4 know whether it would have affected her perception or

5 not. Once again, if it affects Captain Shupe's,

2:48PM

6 that's really all that matters.

7 BY MR. MAYE:

8 Q Are you aware that Chelsie Bright

9 testified that she believed that the touching was

10 inappropriate for a parent-child relationship?

2:48PM

11 A I recall reading that she said that,

12 yes. I recall she didn't know whether they were

13 parent or child, but said that regardless.

14 Q She said it wouldn't have made a

15 difference, right?

2:49PM

16 A Well, I don't know who designated

17 Chelsie Bright as a parent-child psychologist and

18 gives her any leeway to say what's appropriate between

19 an individual parent and that child. So I don't find

20 it to be credible or really relevant.

2:49PM

21 Q If that's the case, the same would be

22 true of you, correct?

23 MR. McKAY: Objection to the form.

24 THE WITNESS: My opinion is not in my

25 report. Mr. McKay asked Captain Shupe if he had known

2:49PM

Page 167

1 that they were father and son, would it impact his 2:49PM
2 opinion of the facial touching, and would it have been
3 a big deal. We can go -- he's the one deciding to
4 separate them. So it's not Ms. Bright's decision.
5 And it certainly wasn't mine. I wasn't there. 2:50PM

6 BY MR. MAYE:

7 Q You weren't there. So given that you
8 weren't there, how are you able to judge whether or
9 not the facial stroking by Mr. DelVecchia on A.D. was
10 not inappropriate? 2:50PM

11 MR. McKAY: Objection to the form.

12 THE WITNESS: So not inappropriate, meaning
13 it was -- first of all, I don't know where I'm
14 allegedly judging anything about the facial stroking.

15 BY MR. MAYE: 2:51PM

16 Q Okay. Let me find the section for you.
17 We just went over it. It says, "These were critical
18 omissions by the PIC, as clearly the knowledge that
19 Mr. DelVecchia and A.D. shared a surname and were, in
20 fact, father and son, would have shed a completely 2:51PM
21 different light on the allegation of inappropriate
22 touching and borne out the fact that it was a simple,
23 consensual loving expression of parental comfort."

24 How are you qualified or what makes you
25 qualified to give that opinion? 2:52PM

Page 168

1 MR. McKAY: Objection to the form. 2:52PM

2 THE WITNESS: I read Mr. DelVecchia's
3 deposition in which he stated that that is exactly
4 what it was.

5 BY MR. MAYE: 2:52PM

6 Q So you're just -- so you've accepted as
7 truth Mr. DelVecchia's testimony about the nature of
8 the touching?

9 MR. McKAY: Objection to the form.

10 THE WITNESS: I believe that any reasonable 2:53PM

11 person -- yes, I did read Mr. DelVecchia's account of
12 what happened, and his relationship was a very complex
13 relationship with his son, and I'm not a psychologist,
14 but yes, I do accept that that was the situation. The
15 paragraph, however, in the report serves to enlighten 2:53PM
16 the reader that there was more than one way to
17 interpret this facial touching, and that really,
18 despite Ms. Bright's characterization of it, it would
19 have at least opened up the realm of possibility that
20 knowing this is father and son, that it was merely a 2:54PM
21 comforting gesture.

22 BY MR. MAYE:

23 Q How do you square that with Chelsie
24 Bright's testimony that in her mind, this was not
25 appropriate touching for a parent-child relationship? 2:54PM

1 A Quite frankly, sir, I don't square 2:54PM
2 anything Ms. Bright said in her -- her deposition
3 testimony contradicts herself and her flight
4 attendants in multiple -- I don't square anything
5 Ms. Bright said, to be quite frank. 2:54PM

6 Q What are you saying? You don't believe
7 anything Ms. Bright has reported? What is that based
8 on?

9 A Well, part of my report, sir, there's
10 an appendix that lists the multiple conflicting 2:54PM
11 accounts of crew member testimony. And I'm happy to
12 go through all of that. It's just that. It's very
13 difficult to discern when you read all four of these
14 flight attendants' testimony, deposition testimonies,
15 who's telling the truth. If, in fact, any of them 2:55PM
16 are, because they all conflict with one another.

17 Q Do you have expertise in judging
18 whether witnesses are testifying truthfully?

19 A Well, I have expertise in reading
20 deposition testimony from one flight attendant that is 2:55PM
21 in direct contradiction to what the second flight
22 attendant said happened for the same event.

23 Q What expertise is that? You said you
24 have an expertise in reading deposition transcripts.
25 What kind of expert background do you have with 2:56PM

1 respect to reading depositions?

2:56PM

2 A I'm not testifying that I'm an expert
3 in reading depositions, sir. What I'm telling you is
4 that there are multiple conflicting witness
5 statements, flight attendant statements, as well as
6 pilot statements in this matter, that don't line up.
7 And you don't have to be an expert to discern one from
8 the other, what is being said when you're trying to
9 drill down to arrive at what really happened.

10 Q My question earlier, I said how do you 2:56PM
11 square Chelsie Bright's testimony that this was, in
12 her mind, not appropriate touching for a parent-child
13 relationship, and your testimony that had she known
14 they were parent and child, maybe she would have had a
15 different perception. And your response was you don't 2:57PM
16 square anything with what Chelsie Bright has said.

17 A Actually, sir, I'm just going to
18 interrupt you because I didn't say that it would
19 change Ms. Bright's perception. What I said was that
20 Shupe, Captain Shupe agreed in his depo that had he 2:57PM
21 known that, and nothing was objectionable about the
22 contact with each other, it would have been a non
23 issue. My focus is on Captain Shupe.

24 Q Okay.

25 A And it may not have affected, as I just 2:58PM

1 previously testified to. Maybe it wouldn't have 2:58PM
2 affected Ms. Bright's perception of the event, and
3 don't know, I can't speak to why she saw it and
4 reacted the way she did or had the opinion about it
5 that she held. I'm merely saying this would have 2:58PM
6 shed, certainly shed new light on the fact that -- and
7 given Captain Shupe one more data point to consider
8 whether this was inappropriate, non-consensual, and I
9 cited in his deposition testimony the fact that he
10 agreed that it might have made a difference. 2:58PM

11 Q And it may not have made a difference,
12 right?

13 MR. McKAY: Objection to the form.

14 THE WITNESS: I don't believe that's what
15 his testimony is. I mean, I'll read it for you. 2:58PM

16 BY MR. MAYE:

17 Q We'll get to in a second, but I thought
18 you just said that it may have made a difference. Did
19 you misspeak?

20 A Well, let me be more clear. 2:59PM

21 MR. McKAY: Objection. Form.

22 THE WITNESS: What my report says is, "Of
23 note in his depo, Shupe agreed that if the passengers
24 had responded that they are father and child and
25 nothing was objectionable about their contact with 2:59PM

1 each other, it would have been a non-issue." 2:59PM

2 BY MR. MAYE:

3 Q Was he -- sorry.

4 A That is taken directly from Captain
5 Shupe's deposition testimony. 2:59PM

6 Q Was he talking specifically about this
7 case?

8 A That is my understanding, sir, yeah, he
9 was responding to Mr. McKay in a deposition about the
10 facial touching in this matter, yes. 2:59PM

11 Q And if he, in fact, was not talking
12 about this case specifically, and he actually said
13 that learning that they are father and son in this
14 case would not have caused him to change his course of
15 action, would that change your opinion about the 3:00PM
16 significance of Captain Shupe learning about the
17 father-son relationship between plaintiffs?

18 MR. MCKAY: Objection to the form.

19 THE WITNESS: I'm sorry, sir. I didn't
20 follow the question. 3:00PM

21 MR. MAYE: Court Reporter, can you read that
22 back?

23 (Record read as follows:

24 "Question: And if he, in
25 fact, was not talking about this 3:00PM

1 case specifically, and he actually 3:00PM
2 said that learning that they are
3 father and son in this case would
4 not have caused him to change his
5 course of action, would that 3:00PM
6 change your opinion about the
7 significance of Captain Shupe
8 learning about the father-son
9 relationship between plaintiffs?")

10 MR. McKAY: Same objection. 3:00PM

11 THE WITNESS: The question starts out saying
12 "If, in fact, he's not talking about this case," and
13 then embedded in the question it says "in this case."

14 BY MR. MAYE:

15 Q You were referring to testimony, and in 3:01PM
16 fact, you just read it, right?

17 A I did just read an excerpt.

18 Q That's the testimony that I'm talking
19 about initially, when I said, if that testimony, or in
20 that testimony that you just read, if he was not 3:01PM
21 talking about this case specifically, and he was
22 talking general terms, but then he was asked
23 specifically about this case, and in this case he
24 testified that it would not have changed his course of
25 action had he known if the plaintiffs were father and 3:01PM

1 son, would that change your opinion about the 3:02PM
2 significance of the father-son relationship?

3 MR. McKAY: Objection to the form and
4 assumes facts not in evidence.

5 THE WITNESS: Sir, that's not what he 3:02PM
6 testified to, so I don't have a -- I mean, that's not
7 what happened here. That's not what he said.

8 BY MR. MAYE:

9 Q I understand. But what I'm asking you,
10 if he did testify that way, if he said, "Specifically 3:02PM
11 in this case had I learned that they were father and
12 son, that wouldn't have changed my course of action, I
13 would have done the same thing," I'm asking you if he
14 had testified to that effect, would that change your
15 opinion that the father-son relationship had any 3:02PM
16 insignificance?

17 MR. McKAY: Objection to the form.

18 THE WITNESS: No, it doesn't change my
19 answer. And again, my answer is that is information I
20 would have wanted as a captain. It's logical 3:03PM
21 information to go get, and it's in line with what I
22 would have instructed the flight attendants, what
23 Captain Shupe should have instructed the flight
24 attendants to do, was to follow their protocol, and he
25 would have ascertained that information. 3:03PM

1 You're asking me to opine about the 3:03PM
2 direct opposite of what he testified to. So I don't
3 really know how to do that.

4 BY MR. MAYE:

5 Q So you're not aware and you've never 3:03PM
6 considered testimony from Captain Shupe that in this
7 case he would not have changed course and it would not
8 have affected his decision-making had he known that
9 the plaintiffs were father and son? You're not aware
10 of that testimony and you never considered that 3:04PM
11 testimony in forging your opinions in this report?

12 MR. McKAY: Objection to the form. There is
13 no such testimony.

14 THE WITNESS: I have not reviewed any such
15 testimony in my materials, sir. And I reviewed 3:04PM
16 Captain Shupe's deposition extensively.

17 BY MR. MAYE:

18 Q Did flight attendants know or suspect
19 that the plaintiffs were father and son at any point
20 during the flight? 3:04PM

21 MR. McKAY: Objection to the form of the
22 question.

23 THE WITNESS: Once again, sir, there's so
24 much conflicting testimony, I really want to go back
25 through the depositions or the summaries. I can 3:05PM

1 answer for specific flight attendants, but they even 3:05PM
2 contradict themselves in their own deposition
3 testimony about that. I would have to go back through
4 the depositions and review them.

5 BY MR. MAYE: 3:05PM

6 Q Do you recall any of the flight
7 attendants testifying that they were aware that the
8 plaintiffs were father and son?

9 A I'm aware that after A.D. was moved out
10 of his father's care, he notified Scott Warren that 3:05PM
11 they were, in fact, father and son. I also believe
12 there's testimony that Mr. DelVecchia did the same.
13 Again, I would have to dive back into the depositions.

14 Q So if that's the case that Scott Warren
15 at some point became aware that they were father and 3:06PM
16 son and the decision wasn't made to move A.D. back to
17 his seat, would you agree that if Scott Warren had
18 learned of that information at that point, he did not
19 consider that information important or significant in
20 the context of what was happening? 3:06PM

21 MR. McKAY: Objection to the form of the
22 question.

23 THE WITNESS: I don't know what Scott Warren
24 considered to be important or relevant.

25

Page 177

1 BY MR. MAYE:

3:06PM

2 Q I'm just asking you to give an opinion.

3 MR. McKAY: Objection to the form.

4 THE WITNESS: I don't have an opinion about

5 what Mr. Warren was thinking, sir.

3:07PM

6 MR. MAYE: Okay.

7 THE WITNESS: I can't offer an opinion as to

8 what he considered relevant or not. I know he didn't

9 consider it relevant to tell Captain Shupe that both

10 P.D. and A.D. were asleep.

3:07PM

11 BY MR. MAYE:

12 Q How do you know that? You just

13 testified that you can't give an opinion on what Scott

14 Warren thought was relevant or important.

15 A Well, I know that he --

3:07PM

16 Q But now you're saying that you can?

17 What's the difference?

18 A What I'm saying, sir, is that he didn't

19 consider -- it was a very relevant piece of

20 information in my opinion, and he didn't feel -- he

3:07PM

21 omitted that critical detail from his report to

22 Captain Shupe about what he observed between P.D. and

23 A.D.

24 Q Would you agree that --

25 A I have to -- I'm sorry. Go ahead.

3:08PM

Page 178

1 Q Go ahead. I'm sorry. 3:08PM

2 A I have to assume that that omission was
3 something he didn't consider relevant because he
4 omitted it, and it was a fairly critical piece of
5 information. 3:08PM

6 Q Would you agree that Scott Warren
7 testified that he wasn't certain whether or not he had
8 told the captain that plaintiffs appeared asleep at
9 the time that he observed the hand on the crotch?

10 MR. McKAY: Objection to the form of the 3:08PM
11 question.

12 THE WITNESS: I would have to go back into
13 the deposition to see what Mr. Warren exactly said in
14 his deposition.

15 BY MR. MAYE: 3:08PM

16 Q So you're testifying that you believe
17 the fact that Mr. Warren or Flight Attendant Warren
18 observed Mr. DelVecchia and A.D. asleep at the time he
19 observed the hand touching, but you don't know what
20 Mr. Warren was thinking at the time he provided 3:09PM
21 information to the captain about what he had observed
22 taking place between Mr. DelVecchia and A.D. at the
23 time the hand was on the crotch. Is that fair?

24 MR. McKAY: Objection to the form of the
25 question. 3:09PM

1 THE WITNESS: Do I know what Mr. Warren was 3:09PM

2 thinking? Is that the question?

3 BY MR. MAYE:

4 Q Yes. When he was providing the

5 information about his observations to Captain Shupe, 3:09PM

6 and you said it was relevant information and it's

7 information that he should have realized was relevant,

8 what I'm asking is you don't know what exactly he was

9 thinking at the time he did or did not provide that

10 information to Captain Shupe. Is that fair? 3:10PM

11 MR. McKAY: Objection to the form of the

12 question.

13 THE WITNESS: I don't know what he was

14 thinking. I do know what he was tasked to do, and

15 that was to provide Captain Shupe the most thorough 3:10PM

16 and complete description of his direct observations

17 that he could, and to omit the fact that both P.D. and

18 A.D. were asleep, paints a very incomplete picture for

19 Captain Shupe to then act upon.

20 MR. McKAY: Brian, is this a good point for 3:11PM

21 a break.

22 MR. MAYE: Yeah. Sure. Wait. Hold on.

23 Yeah, that's fine.

24 THE VIDEOGRAPHER: This marks the end of

25 Media Number 3. The time is 3:11 p.m. We're off the 3:11PM

Page 180

1 record.

3:11PM

2 (Recess.)

3 THE VIDEOGRAPHER: This marks the beginning

4 of Media Number 4. The time is 3:26 p.m. We're back

5 on the record.

3:26PM

6 BY MR. MAYE:

7 Q Captain Norton, to the extent Flight

8 Attendant Warren did not provide the information to

9 Captain Shupe that the plaintiffs appeared to sleep at

10 the time he observed the hand on the crotch, were

3:26PM

11 there any facts in the case that you have reviewed

12 establishing why such information was not provided to

13 Captain Shupe?

14 A Are you asking if I know why Scott

15 Warren did not report that?

3:26PM

16 Q Yes.

17 A Is that your question?

18 Q Yes, to the extent he did not report

19 it, are there any facts in the case that you have seen

20 that indicate the reason he did not provide such

3:26PM

21 information?

22 A No, sir, I have no idea why he wouldn't

23 convey that information.

24 Q Are you aware of any facts indicating

25 that Captain Shupe was aware that plaintiffs appeared

3:27PM

1 sleeping at the time that Mr. Warren observed the hand 3:27PM
2 on the crotch?

3 A I believe my report, if I may, I
4 believe that he testified that he didn't -- he wasn't
5 aware of it and that he agreed that he wouldn't 3:27PM
6 consider someone to be sexually molesting someone if
7 the alleged molester is asleep. That's what I -- I
8 believe that the -- I could go back into his depo, but
9 I believe that line of questioning established that he
10 wasn't -- he hadn't been told that they were sleeping 3:27PM
11 and he didn't know at the time.

12 MR. McKAY: Brian, I was just going to say
13 that according to my calculations, we've been on the
14 record for four hours and 20 minutes.

15 MR. MAYE: Thanks, John. 3:29PM

16 I'm showing the witness what has been
17 marked as Exhibit 3, which is the deposition
18 transcript of Captain Shupe, and directing the
19 witness' attention to page 52.

20 (Deposition Exhibit 3 was marked for 3:30PM
21 identification.)

22 MR. McKAY: I think what you're looking for
23 is in Tara's cross.

24 MR. MAYE: Pardon?

25 MR. McKAY: I said I think what you're 3:31PM

1 looking for is in Tara's cross. 3:31PM

2 MR. MAYE: Oh, okay. Right.

3 MR. McKAY: This is the part where he agreed

4 with me on 52. And then she asked it a little

5 differently, and he said something a little different 3:31PM

6 in cross.

7 MR. MAYE: Great. Let me -- I'll come back

8 to that.

9 BY MR. MAYE:

10 Q On page 3 of your report, you state -- 3:32PM

11 oh, I see that. Okay. You state that Shupe then

12 instructed the flight attendant to conduct frequent

13 walk-bys and report back to him, specifically if there

14 was an observation of any more touching between

15 Mr. DelVecchia and A.D. Shortly thereafter, a fourth 3:32PM

16 flight attendant, Scott Warren, parentheses, having no

17 prior interactions with the DelVecchias, end of

18 parentheses, walked the length of the cabin, returned

19 to the cockpit to directly relay to Shupe his

20 observation, in parentheses -- I'm sorry, quotations, 3:33PM

21 that Mr. DelVecchia is now sexually molesting A.D.

22 Do you see that? And then you, in

23 parentheses, you say specifically that Peter

24 DelVecchia had his hand on A.D.'s crotch.

25 Where in anyone's testimony was it said 3:33PM

Page 183

1 that Flight Attendant Warren said to Captain Shupe 3:33PM

2 that Mr. DelVecchia was now molesting A.D.?

3 A I would have to go back through -- I
4 would have to go back through the deposition testimony
5 to specifically answer that. 3:33PM

6 Q Are those your words, your description
7 of what Flight Attendant Warren told Captain Shupe or
8 are those the exact words that you believe Flight
9 Attendant Warren told Captain Shupe?

10 A Again, sir, I'd have to go back through 3:34PM
11 the deposition. There were multiple, as I said, there
12 were -- there was conflicting, quite a bit of
13 conflicting testimony, as I stated in the next
14 paragraph, regarding the specific verbiage that was
15 used by Scott Warren to describe the -- to describe 3:34PM
16 what he witnessed. And I can, I suppose, look at my
17 appendix C.

18 MR. MCKAY: Excuse me. I can save the time.
19 It's right there in the report. It says, "Parents,
20 specifically that P.D. had his hand on A.D.'s crotch 3:35PM
21 area."

22 THE WITNESS: Yeah, I guess that's -- the
23 specifics, I believe that that is exactly what I
24 lifted from Scott Warren's testimony, was that P.D.
25 had his hand on A.D.'s crotch area. 3:35PM

1 BY MR. MAYE:

3:35PM

2 Q So Flight Attendant Warren did not say
3 specifically that Peter DelVecchia was now sexually
4 molesting A.D. Would you agree with that?

5 A Again, sir, I would ask to --

3:35PM

6 MR. McKAY: Objection.

7 THE WITNESS: I would ask to go back into
8 his deposition. I know that Ms. Bright Sakurada --

9 BY MR. MAYE:

10 Q We're talking about Warren here.

3:36PM

11 A Right. I understand. But there was
12 hearsay and there were flight attendants. What did
13 Scott say and then what did Scott tell the captain.
14 And that's why my -- the paragraph subsequent to that
15 in parenthesis points out the multiple conflicting
16 accounts as well as the conflicting testimony
17 regarding what specific verbiage Scott Warren used.

3:36PM

18 Q So you believe that Scott Warren used
19 conflicting language regarding his description of what
20 he observed?

3:36PM

21 MR. McKAY: Objection to the form.

22 THE WITNESS: Sir, there's so much
23 conflicting testimony between the flight -- I mean,
24 Scott Warren just himself, I -- I have a --

25

Page 185

1 BY MR. MAYE:

3:37PM

2 Q I'm just asking about the description
3 to Captain Shupe about what he observed. Did he say
4 something different than he saw A.D.'s -- he saw
5 Peter's hand on A.D.'s crotch area?

3:37PM

6 A Well, that's what my report says, so I
7 believe I lifted that from Mr. Warren's actual
8 deposition.

9 Q So what I'm asking is, why did you
10 characterize what Flight Attendant Warren said to
11 Captain Shupe about his observation as "now he's
12 sexually molesting A.D."?

3:37PM

13 A I don't know that I understand your
14 question. I mean, that is what he actually reported
15 to Captain Shupe.

3:37PM

16 Q No. I'm sorry, I thought you just said
17 that what he reported to Captain Shupe was that Peter
18 DelVecchia's hand was on A.D.'s crotch.

19 A Well, again, I would ask that I can go
20 back into Scott Warren's deposition. I also have
21 descriptions of what Scott Warren told -- if you're
22 asking what he exactly told the captain, I have some
23 differing accounts of what he actually said for the
24 flight attendants' verbiage that they allege Scott
25 Warren used to describe what he observed with regard

3:38PM

3:38PM

1 to the hand touching. 3:38PM

2 Q What did Flight Attendant Warren tell
3 Captain Shupe about what he observed?

4 MR. McKAY: Okay. Let's let her look at the
5 deposition testimony. 3:39PM

6 MR. MAYE: Okay. Can we go off the record?

7 MR. McKAY: Whatever you want to do.

8 MR. MAYE: Let's go off the record.

9 THE VIDEOGRAPHER: Going off the record.

10 The time is 3:39 p.m. 3:39PM

11 (Recess.)

12 THE VIDEOGRAPHER: The time is 3:45 p.m.

13 We're back on the record.

14 BY MR. MAYE:

15 Q Captain Norton, in this sentence I've 3:45PM
16 highlighted in your report page 3, second paragraph --

17 MR. McKAY: You're not sharing.

18 MR. MAYE: Oh, shit.

19 MR. McKAY: Can't say that on the record.

20 MR. MAYE: Withdrawn. 3:45PM

21 BY MR. MAYE:

22 Q In the page 3, second paragraph, second
23 sentence, which I've highlighted, says, "Shortly
24 thereafter, a fourth flight attendant, Scott Warren,
25 having had no prior interaction with DelVecchias, 3:45PM

Page 187

1 walked the length of the cabin and returned to the 3:45PM
2 cockpit to directly relay to Shupe his observation
3 that Peter DelVecchia was now sexually molesting A.D.,
4 parenthesis, specifically that P.D. had his hand on
5 A.D.'s crotch." 3:45PM

6 Now, is it true that Scott Warren
7 testified that he told Captain Shupe that
8 Mr. DelVecchia's hand was on A.D.'s crotch?

9 A That is what I was just trying to find
10 for you, sir. I don't believe I would have put it in 3:46PM
11 my report to read specifically that if that's not what
12 I read.

13 Q Okay. Now -- sorry.

14 A Sorry. There's also testimony from
15 the -- 3:46PM

16 Q I know. I'm going to ask you follow-up
17 question. So with respect to the statement that P.D.
18 was now sexually molesting A.D., would you agree that
19 that's not based on what Flight Attendant Warren
20 specifically said about what he told Captain Shupe? 3:46PM

21 MR. McKAY: Objection to the form of the
22 question.

23 THE WITNESS: Again, sir, I wish I could
24 look it up for you, but it could be contextual. I
25 think that the exact -- that the quote was that, and 3:47PM



1 I'm looking at other information of Chelsie and what 3:47PM
2 was said, but that Mr. Warren stated that he saw
3 Mr. DelVecchia's hand resting on the boy's crotch.
4 And I wrote "crotch area." So again, I think it's
5 sort of the same concept, but I can't go into 3:47PM
6 Mr. Warren's deposition without leaving --

7 BY MR. MAYE:

8 Q So without going into his deposition,
9 you don't recall Flight Attendant Warren ever
10 specifically saying to Captain Shupe that Peter 3:47PM
11 DelVecchia was now sexually molesting A.D. Is that
12 fair?

13 MR. McKAY: Objection to the form.

14 THE WITNESS: Specifically, no, I don't.

15 BY MR. MAYE: 3:48PM

16 Q So why did you characterize what Flight
17 Attendant Warren said to Captain Shupe as "now
18 sexually molesting A.D."? What is the basis of your
19 description?

20 MR. McKAY: Objection to the form. 3:48PM

21 THE WITNESS: Again, sir, I think it was
22 lifted out of the term that was being used in
23 questioning during the deposition as well as the fact
24 that Chelsie Bright used the term in hers as well.

25

Page 189

1 BY MR. MAYE:

3:48PM

2 Q Are you aware of any flight attendant

3 saying to any other flight attendant during this

4 flight, or any flight attendant stating to Captain

5 Shupe during this flight that they suspected that

3:48PM

6 Mr. DelVecchia was sexually molesting A.D. during this

7 flight?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: No. In fact, none of the

10 flight attendants listed any specific protocol that

3:49PM

11 they were allegedly following with regard to how they

12 treated the DelVecchias, as I testified to earlier.

13 BY MR. MAYE:

14 Q So is that a "yes," that you're not

15 aware of any flight attendant stating during the

3:49PM

16 flight that Peter DelVecchia was sexually molesting

17 A.D.?

18 MR. McKAY: Objection to the form.

19 THE WITNESS: The specific verbiage, once

20 again, that Mr. Warren used in both what was told to

3:49PM

21 the other flight attendants and to Captain Shupe, I

22 think could be reasonably described as sexual

23 molestation. Was that term specifically used from one

24 flight attendant to another flight attendant or to the

25 captain? Not that I reviewed.

3:50PM

Page 190

1 BY MR. MAYE:

3:50PM

2 Q Fifth paragraph down --

3 MR. McKAY: What page, Counsel?

4 BY MR. MAYE:

5 Q This is page 3, fifth paragraph,

3:50PM

6 paragraph begins with "Shupe."

7 It says, "Shupe, despite testifying

8 under oath that 'The buck stops with me,' then made

9 the ultimate decision to separate A.D. from P.D. with

10 all four flight attendants present; presumably Bright

3:51PM

11 Sakurada and Warren in the cockpit, and Bond and

12 Nickel on the intercom, and agreed that everyone in

13 the cockpit agreed that the best thing to do was to

14 separate them."

15 Are you suggesting here that Captain

3:51PM

16 Shupe -- are you indicating here that Captain Shupe

17 got a consensus from the flight attendants about

18 separating A.D. from Mr. DelVecchia?

19 MR. McKAY: Objection to the form.

20 THE WITNESS: Am I indicating that that's

3:51PM

21 what he did? I'm sorry. I don't understand the

22 question.

23 BY MR. MAYE:

24 Q Yes. I'm trying to figure out what

25 this sentence means.

3:52PM

1 One, are you saying that Captain Shupe 3:52PM

2 got a consensus from the flight attendants about
3 separating A.D. from Mr. DelVecchia before he actually
4 directed that A.D. be separated from Mr. DelVecchia?

5 MR. McKAY: Objection to the form. 3:52PM

6 THE WITNESS: That's probably -- the first
7 sentence is kind of dependent upon the second one,
8 which, my point being, that the captain, who the buck
9 does indeed stop with, made this critical decision
10 that only he could make, irrespective of the fact that 3:52PM
11 all he did was -- he directed no protocol, no
12 suspected human trafficking or suspected sexual
13 molestation protocols were followed. Let me correct
14 myself. There is no suspected sexual molestation, but
15 reported sexual molestation. 3:53PM

16 So the point being, the buck does stop
17 with Captain Shupe, and in my opinion he had the
18 responsibility to engage some of the myriad resources
19 at his disposal to try to get more information before
20 making this critical decision to separate this family. 3:53PM

21 BY MR. MAYE:

22 Q Well, didn't he consult with all four
23 flight attendants about the circumstances?

24 A Bond and Nickel basically both
25 testified that they had nothing to offer with regard 3:53PM

1 to -- they observed nothing. They didn't seem to. So 3:53PM
2 they had nothing --

3 Q Was it appropriate -- sorry, go ahead.

4 A Sorry?

5 Q Was it appropriate -- 3:54PM

6 MR. McKAY: Stop talking over each other,
7 please.

8 BY MR. MAYE:

9 Q Was it appropriate or permissible for
10 Captain Shupe to talk to all four flight attendants 3:54PM
11 about their observations and their views about the
12 circumstances before making a decision to separate
13 A.D. from Mr. DelVecchia?

14 A Of course. That would have been a --
15 that would have been a good first step. That's not 3:54PM
16 what that paragraph does, though. What my point is,
17 is that there were many other resources and other
18 actions that could and should have been taken that
19 were not before this decision was made and that
20 Captain Shupe had a responsibility to undertake those. 3:54PM

21 Q And what are those? You said myriad of
22 resources at his disposal. What are those resources?

23 A Well, the first thing would be to go to
24 ask his "A" flight attendant, who frankly should have
25 been by Frontier's own policy, should have been the 3:55PM

Page 193

1 only flight attendant in the cockpit, to produce her 3:55PM
2 flight attendant manual with the appropriate sections
3 so that, as we discussed previously, whatever
4 suspected protocol, the steps should have been
5 followed. He could and should have queried his 3:55PM
6 dispatcher for more information regarding the
7 DelVecchias, which could have been done right after
8 the initial report.

9 The critical piece that we're missing
10 here is that there is a chronological piece to this 3:55PM
11 that kind of gets -- this all didn't happen all at
12 once and all in a vacuum. It developed. It continued
13 to escalate, beginning with somebody's first notice
14 that something was off but not explaining. If someone
15 tells me as the captain, "I don't know. Something is 3:56PM
16 just off about these people," I'm going to ask for
17 more details. Really what happened here is that the
18 first concrete report of anything was Chelsie Bright's
19 report of the facial touching, which once again, I've
20 seen her demonstrate live what that facial touching 3:56PM
21 really was, and I know we've covered the facial
22 touching, I'm not an expert to talk about her
23 interpretation, but there was nothing that I witnessed
24 that would have been alarming about that.

25 But from a chronological standpoint, 3:56PM



1 when that was first reported, we sort of have to pause 3:56PM
2 at that point because from that point forward, it was
3 incumbent upon Captain Shupe to say, "Okay, Chelsie,
4 what do you suspect? What are you worried about? Do
5 you have a policy or protocol that we can follow, and 3:57PM
6 let's under take that."

7 Q Where in Frontier's flight operations
8 manual does it say that the captain is required to ask
9 the flight attendants for their flight attendant
10 manual and for the flight attendants to identify which 3:57PM
11 protocols apply under the circumstances, and then for
12 the captain to make a determination, if the flight
13 attendants are correct in their determination
14 regarding which protocols apply?

15 A Well, sir, what other alternative does 3:58PM
16 a captain have when he or she is not in possession of
17 information about suspected human trafficking or
18 observed sexual -- inappropriate sexual touching. The
19 flight attendants, as we discussed this earlier, are
20 the ones in possession of that. If he has to search 3:58PM
21 his own manuals for guidance, then there's no other
22 reasonable recourse other than to review what the
23 flight attendants' guidance is before making a
24 decision.

25 Q Can't the captain collect the facts and 3:58PM

Page 195

1 then apply critical thinking and come up with a 3:58PM
2 reasonable solution based on his processing the
3 information gathered?

4 A One would hope. And the missing
5 pieces, collect the facts. All he collected was 3:59PM
6 hearsay. He had no direct observation. And there are
7 protocols and policies and procedures in place. We
8 don't get to just sort of half-handed create our own.
9 They exist. Ours exist and the flight attendants'
10 exist because they've been well thought out and 3:59PM
11 presumably they get you the most information and data
12 you can get as succinctly as you can get it. And
13 there were two avenues, right, dispatch and going
14 through the flight attendant protocol.

15 Q Let's first start with the dispatch. 3:59PM
16 So as a resource that you identify, you're opining
17 that Captain Shupe should have contacted dispatch to
18 find out if the plaintiffs were related. Is that
19 fair?

20 A To find out -- to glean, unearth any 4:00PM
21 information about them. That the first thing
22 presumably that would have happened is that he would
23 have seen they, in fact, shared a surname.

24 Q Okay.

25 A These two individuals were initially 4:00PM



1 seated in 13 -- in the exit row. They could, 4:00PM
2 therefore, be identified. And the first thing that
3 would become evident immediately is that they shared a
4 surname and were, in fact, father and son. That could
5 have been gleaned in the first -- while Ms. Bright was 4:00PM
6 still in the cockpit.

7 Q Are pilots trained that in the context
8 of human trafficking, the traffickers will use a
9 different name for the child so the trafficker and
10 child's names match? 4:01PM

11 MR. McKAY: Objection to the form.

12 THE WITNESS: I think I testified that
13 pilots really, other than the generic CBT training
14 that I'm aware of that human trafficking exists on our
15 aircraft or at least to be on the lookout for it, 4:01PM
16 don't receive training in what the actual traffickers
17 will do. The flight attendants receive that training.

18 BY MR. MAYE:

19 Q Would you agree that just because two
20 passengers' names, the surnames, match, that it's not 4:01PM
21 necessarily true that they are actually related?

22 MR. McKAY: Objection to the form.

23 THE WITNESS: I really don't have an opinion
24 about that. I mean, certainly people are capable of
25 telling non-truths. I think it would have been -- I 4:02PM

Page 197

1 think if you'll allow, the whole reason that I'm going 4:02PM
2 down the road is that specifically if what was being
3 suspected was human trafficking, which seems to fit at
4 least the initial flight attendant's concerns, the
5 protocol that exists would have had them go back and 4:02PM
6 initiate some conversation and find out some relevant
7 facts, at which point A.D. himself would have stated
8 that P.D. was his father, which he ultimately told
9 Scott Warren after they had been separated.

10 BY MR. MAYE: 4:02PM

11 Q Regarding the resource of dispatch, any
12 information that could have been gleaned from
13 dispatch, other than whether they had the same
14 surnames?

15 A I don't know what -- likely -- it's not 4:02PM
16 my area of expertise. But I do believe they could
17 access their P&Rs, when they made the reservations,
18 had they traveled together before, those types of
19 things. But that is outside my area of expertise. I
20 think the critical piece for me is that it would have 4:03PM
21 been indicative that they shared a surname.

22 Q If a flight attendant comes to you and
23 says, "I have observed an adult stroking the genitals
24 of a child," are you saying that the captain is
25 required to call dispatch and ask dispatch to provide 4:03PM

1 to the captain the P&R or P&Rs of the two passengers 4:03PM
2 so the captain can analyze whether there's support for
3 the potential separation of the child from the parent?

4 MR. McKAY: Objection to the form.

5 THE WITNESS: No, that's not what I 4:04PM
6 testified to.

7 BY MR. MAYE:

8 Q I'm wondering, so you said that you
9 could call dispatch and ask for the P&R?

10 A Yeah, I'm sticking with the -- that was 4:04PM
11 in response to us actually, what I thought we were
12 describing was the actual event that happened here.
13 My response was, when Ms. Bright entered the cockpit,
14 described the facial touching that was making her
15 uncomfortable, that contacting dispatch at that moment 4:04PM
16 was a resource that Captain Shupe had at his disposal
17 that he didn't utilize. That's my testimony.

18 Q Okay. So say Captain Shupe contacted
19 dispatch and said, "Hey, do these two have the same
20 surname," and if he had gotten that information, how 4:05PM
21 would that have changed course of action from Captain
22 Shupe's point of view, his obligations?

23 A Well, he testified to the fact that had
24 he known that, he wouldn't have considered -- I mean,
25 this is where we went off the rails to start with, 4:05PM

1 right? I mean, what would it have changed? Captain 4:05PM
2 Shupe himself said had he known that, he wouldn't have
3 considered the touching to be an issue, or he would
4 have considered it a non-issue. He also testified
5 that the only way to find out whether touching is 4:05PM
6 consensual or non-consensual is to go back and ask the
7 affected individuals. And yet he didn't direct his
8 flight attendants to do that. And that would be the
9 first step on Frontier's suspected human trafficking
10 policy and procedure. 4:06PM

11 Q So you believe that Captain Shupe
12 should have contacted dispatch to find whether they
13 had the same surname, right? That's one?

14 MR. McKAY: Objection to the form.

15 THE WITNESS: Actually, sir, what I 4:06PM
16 testified to is that he would have -- that he should
17 have contacted dispatch for any information they had
18 on the passengers, on the DelVecchias, which clearly
19 would have immediately revealed the surname, is my
20 testimony. And anything else they may have had. 4:06PM

21 BY MR. MAYE:

22 Q What is that based on, your opinion
23 that he should have contacted dispatch and asked for
24 any information on the two passengers, Mr. DelVecchia
25 and A.D.? What's that based on? That opinion. 4:06PM

1 A My opinion that he should have 4:07PM
2 contacted dispatch?

3 Q Yes.

4 A He's been alerted by his "A" flight
5 attendant of a potential situation on board his flight 4:07PM
6 concerning these two passengers. So I mean, dispatch
7 is our one-stop shopping, if you will. We go to them
8 with myriad questions and they have a host of
9 resources at their fingertips. And it would be one of
10 the first things I would do, "Tell me what we know 4:07PM
11 about these two individuals."

12 Q What I'm asking is, is that based on a
13 standard of care that you're aware of? Based on the
14 industry standard that you're aware of, specifically?

15 MR. McKAY: Objection to the form. 4:07PM

16 THE WITNESS: Sir, it's just part of being a
17 captain. It's how we're trained. It's a resource
18 that is available at our fingertips to be utilized
19 anytime we are in need of information that we don't
20 have. As I mentioned earlier, the dispatcher and I 4:08PM
21 share joint responsibility for planning the flight and
22 for ultimately, once it's airborne, it's my baby, but
23 dispatch is there to help me with any information I
24 need to answer questions I have or successfully
25 complete the flight. 4:08PM

Page 201

1 BY MR. MAYE:

4:08PM

2 Q What I'm asking is your opinion that
3 when Captain Shupe learned from Chelsie Bright that
4 she observed the stroking of the face in a manner that
5 she deemed not parental-like and made her
6 uncomfortable, is there a federal regulation or is
7 there an industry standard or a standard of care that
8 you're familiar with, that dictates that Captain Shupe
9 was required to contact dispatch to ask for any
10 information about the two involved?

4:09PM

11 MR. MCKAY: Objection to the form.

12 THE WITNESS: Was he required to by Federal
13 Aviation Regulation?

14 MR. MAYE: Right.

15 THE WITNESS: No. Does that alter my
16 opinion, my strong opinion that he was remiss in not
17 so doing? It does not at all. Why would you not?

4:09PM

18 BY MR. MAYE:

19 Q On page 12 of your report, in the
20 second paragraph from the bottom, you state that, "If
21 Captain Shupe had determined that what Flight
22 Attendant Bright Sakurada told him at the very
23 beginning was inappropriate touching, then according
24 to his later testimony, [REDACTED]

4:11PM

[REDACTED]

4:11PM

Page 202

1 [REDACTED] 4:11PM

2 According to this opinion, would you
3 agree that you believe that Captain Shupe could have
4 separated Mr. DelVecchia and A.D. immediately without
5 further investigation after Flight Attendant Chelsie 4:12PM
6 Bright told him about the inappropriate stroking of
7 the face?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: No, sir. How it reads is if
10 he, being Captain Shupe, if he had determined that 4:12PM
11 what Bright Sakurada told him at the very beginning
12 was indeed inappropriate touching; i.e., if he was
13 able to verify that by going through the proper
14 protocol and following whatever protocol it was, [REDACTED]

[REDACTED] 4:12PM
[REDACTED] -- [REDACTED]
[REDACTED]

18 My word is "determined." Not taking
19 her account for granted. I used the word
20 "determined." 4:13PM

21 BY MR. MAYE:

22 Q Right. So if Captain Shupe had
23 determined, based on what a senior flight attendant
24 told him who he had great respect for and believed she
25 was an extraordinary flight attendant, and she tells 4:13PM

1 him, "This is what I saw," and he determined, based on 4:13PM
2 that, he made the determination just based on that --

3 A Well, that's not what that says, sir.
4 I didn't say he determined only based upon what she
5 said. I said that he -- 4:13PM

6 Q I'm sorry. You say -- I'll read it
7 again so we're clear on what you said. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 4:14PM
[REDACTED]
[REDACTED]
[REDACTED]

14 So based on that, would you agree that
15 Captain Shupe could have moved A.D. without gathering 4:14PM
16 any further information after Flight Attendant Bright
17 Sakurada told him that this was inappropriate
18 touching, and he made a determination that it was
19 inappropriate touching?

20 A No. 4:14PM

21 MR. McKAY: Objection to the form.

22 BY MR. MAYE:

23 Q So you disagree with that. You believe
24 that what you wrote there doesn't say that?

25 A Well, I've tried to -- I'll explain it 4:15PM

1 to you again.

4:15PM

2 Q Well, I'm trying to ask --

3 MR. McKAY: Whoa, whoa, whoa. Stop cutting

4 her off, please.

5 MR. MAYE: John, I appreciate your

4:15PM

6 objection, but --

7 MR. McKAY: Let her answer.

8 MR. MAYE: -- I'm taking the deposition, and

9 if the witness is not being responsive, and if the

10 witness is not answering questions, I have a right to

4:15PM

11 interject and try to direct the witness in the

12 appropriate direction.

13 BY MR. MAYE:

14 Q And in this case, ma'am, I'm asking

15 you, one sentence that you wrote here, are you

4:15PM

16 disagreeing with my interpretation of that sentence?

17 A Apparently I am. And I've tried to

18 explain. But the word "determined" means, the way I

19 wrote it, if Captain Shupe had listened to F.A. Bright

20 and her concerns, and subsequently, through his own

4:16PM

21 investigation, or however he decided to make a

22 determination that what she is -- what she had

23 initially come to the cockpit saying, inappropriate

24 touching, was in fact the case, or to his best ability

25 to ascertain that that was the case, then he wouldn't

4:16PM

1 need to have done anything else; i.e., instructed them 4:16PM
2 to continue to walk the cabin and conduct frequent
3 walk-bys and report back to him about further
4 touching.

5 [REDACTED] 4:16PM

6 [REDACTED] which kind of takes this a bit
7 out of context as well. But I do believe you're not
8 interpreting what I wrote to be what the intent is.

9 I didn't say that -- otherwise I would
10 have written, if he, Captain Shupe, had just taken 4:17PM
11 F.A. Bright Sakurada's word for what she observed and
12 done nothing else, and that was enough for him to make
13 a determination, [REDACTED]

14 [REDACTED]
15 [REDACTED] 4:17PM

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED] 4:17PM

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED] 4:18PM

1 MR. McKAY: Objection to the form. 4:18PM

2 THE WITNESS: Well, you keep saying the
3 "pilot." Can the captain?

4 BY MR. MAYE:

5 Q Can the captain? 4:18PM

6 A The problem here, and obviously we
7 probably wouldn't be having this discussion if that
8 weren't the case. The captain can unilaterally make
9 any decision he or she wants to, but he or she darn
10 well better have a basis and done some fact-finding 4:18PM
11 and gathering to back it up, and be willing to face
12 the repercussions of making an incorrect decision.

13 Q Okay. You say the incorrect decision.
14 Does the ultimate determination of what actually
15 transpired between the two passengers who are involved 4:19PM
16 in the suspected sexual misconduct, is the ultimate
17 determination of what transpired between them have any
18 effect on whether or not the captain's decision was a
19 reasonable and proper decision?

20 MR. McKAY: Objection to the form. 4:19PM

21 THE WITNESS: I'm not sure I understand the
22 question, sir.

23 BY MR. MAYE:

24 Q Say a flight attendant suspects human
25 trafficking, and the flight attendant follows the 4:20PM

Page 207

1 protocol and engages the passengers with some basic 4:20PM
2 conversation, "How are you? Where are you headed?"
3 and the flight attendant still suspects that human
4 trafficking is happening. And the flight attendant
5 tells the captain, "Captain, I suspect human 4:20PM
6 trafficking." The captain then notifies law
7 enforcement. Law enforcement meets the aircraft upon
8 arrival, and law enforcement interviews the passengers
9 involved in the suspected human trafficking. And law
10 enforcement determines that it actually was not human 4:20PM
11 trafficking.

12 Does that conclusion by law enforcement
13 have any bearing on whether or not the captain made
14 the proper decision?

15 MR. McKAY: Objection to the form. 4:21PM

16 THE WITNESS: It certainly doesn't assuming
17 that the protocol was actually followed in the manner
18 that you described, which in our case it was not.

19 BY MR. MAYE:

20 Q In our case you do not believe that the 4:21PM
21 human trafficking protocol was complied with?

22 A It's not a matter of whether I believe
23 it or not. There's not a single flight attendant or
24 pilot that testified that that procedure was followed
25 or that it was even brought up to the captain that it 4:21PM

1 existed. Let's review it. We have it. We know what 4:21PM
2 it is.

3 Q Do you see any testimony that the
4 flight attendants said and determined that human
5 trafficking was suspected? 4:21PM

6 A Sir, as I've testified to several times
7 already today, the flight attendants were -- they
8 didn't have any specific reference to anything other
9 than their discomfort about certain things which grew
10 over time. They are provided these policies and 4:22PM
11 protocol to address such suspicions. If they arise to
12 them, there's somewhere they can go. There's
13 something they can do about it. There is a policy in
14 place.

15 Q Ma'am, I'm asking you -- I'm sorry. 4:22PM
16 I'm asking you if any flight attendant testified, or
17 if there was any statements provided by the flight
18 attendants that they suspected that Mr. DelVecchia and
19 A.D. were involved in human trafficking?

20 A Ms. Bright in her deposition referred 4:22PM
21 to trafficking, and I can find -- well, I can't find
22 the exact without leaving this, but she referred to
23 the fact that trafficking is -- and that's the word
24 she used -- is always top of mind for them or always
25 on their mind. 4:23PM

1 Q Absolutely. That doesn't mean that 4:23PM
2 flight attendants have made a determination that human
3 trafficking is potentially in process or is occurring,
4 right? They're trying to keep an eye out for human
5 trafficking, right? They're trying to keep an eye out 4:23PM
6 for human trafficking, signs of human trafficking,
7 right?

8 MR. McKAY: Objection to the form.

9 THE WITNESS: Yes. That is her testimony.
10 But obviously that's top of mind. So there's no 4:23PM
11 other -- in the absence of Ms. Bright going into the
12 cockpit and saying "I believe there's sexual
13 misconduct taking place or that this individual, this
14 minor child might be deemed human trafficked," which
15 she said neither of those things, she just described 4:24PM
16 what she felt was facial touching that she felt was
17 inappropriate, my point is there's got to be a next
18 level -- where do we go from there? And there's
19 guidance to help the flight attendants that they could
20 have shared with the captain and undertaken. And that 4:24PM
21 was not done.

22 BY MR. MAYE:

23 Q Are you saying that they should have
24 invoked the human trafficking policy even though they
25 didn't suspect human trafficking? 4:24PM

1 MR. McKAY: Objection to the form. 4:24PM

2 THE WITNESS: I don't know what they
3 suspected, sir, because they didn't identify -- they
4 were unclear. And when I say "they," I'll be quite
5 clear. It was quite a distance into the flight, over 4:24PM
6 an hour, hour and forty-five or something, after the
7 DelVecchias had been moved out of exit row, after the
8 beverage service had happened.

9 The only two flight attendants, as we
10 discussed earlier, had a brief and benign interaction 4:25PM
11 with the DelVecchias, and nothing was amiss, they were
12 causing no disturbance. They were model passengers.
13 In fact, they were asleep.

14 BY MR. MAYE:

15 Q Yes, that's right. So why at that 4:25PM
16 point -- why at that point would they invoke the human
17 trafficking protocol if they didn't suspect human
18 trafficking?

19 MR. McKAY: Objection to the form.

20 THE WITNESS: Well, what did Ms. Bright 4:25PM
21 suspect when she was uncomfortable with the fact that
22 a father was touching his son's face?

23 BY MR. MAYE:

24 Q Sexual misconduct.

25 MR. McKAY: Objection to the form. 4:25PM

Page 211

1 BY MR. MAYE:

4:25PM

2 Q Do you think it's possible that they
3 never suspected human trafficking so they never
4 invoked the human trafficking policy. And then
5 Chelsie Bright observed the inappropriate touching
6 that she determined was sexual misconduct, and at that
7 point they were guided by the sexual misconduct
8 policy?

4:25PM

9 MR. McKAY: Objection to the form.

10 THE WITNESS: I don't agree with that.

4:26PM

11 BY MR. MAYE:

12 Q Okay. Well, let me ask this. At any
13 point did any flight attendant say that he or she
14 suspected that Mr. DelVecchia was human trafficking
15 A.D.?

4:26PM

16 MR. McKAY: Objection to the form.

17 THE WITNESS: Not in so many words. But
18 again, the deposition testimony of Ms. Bright, the
19 closest we can come to whatever -- she also didn't
20 walk in the cockpit and say that there was a sexual --
21 she just said that there was inappropriate facial
22 touching.

4:26PM

23 BY MR. MAYE:

24 Q I'm asking about human trafficking.

25 A She also didn't walk into the cockpit

4:27PM

1 and say that there was sexual misconduct occurring. 4:27PM

2 She just said that there was facial touching and it

3 was making her -- it seemed inappropriate.

4 Q I'm asking about the human trafficking.

5 MR. McKAY: She just answered you. 4:27PM

6 MR. MAYE: No, she didn't.

7 MR. McKAY: Yeah, she did.

8 BY MR. MAYE:

9 Q Did any flight attendant say that he or
10 she suspected human trafficking with respect to 4:27PM
11 Mr. DelVecchia and A.D.?

12 A Chelsie Bright referred to it in her
13 deposition.

14 Q What do you mean when she referred to
15 it? Did she say that she suspected human trafficking? 4:27PM

16 A I, again, if we want to go back into
17 the deposition --

18 Q Yeah, let's do that.

19 A -- I'll read you exactly what --

20 Q Yeah, let's do that. Let's do that. 4:27PM

21 A I can't do it because --

22 MR. McKAY: Page 61.

23 MR. MAYE: Let's do that. Let's go off the
24 record for a second.

25 MR. McKAY: Sure. 4:28PM

1 THE VIDEOGRAPHER: Going off the record. 4:28PM

2 The time is 4:28 p.m.

3 (Recess.)

4 THE VIDEOGRAPHER: The time is 4:31 p.m.

5 We're back on the record. 4:31PM

6 BY MR. MAYE:

7 Q So after -- page 60, line 10, Mr. McKay
8 asks Chelsie Bright, "Now, nothing that Anna Bond had
9 said to you or that you observed, indicated that these
10 people were a risk to the safety of the flight?" 4:31PM

11 "Answer: Absolutely not."

12 Line 14.

13 "Mr. McKay: Okay. So again

14 I ask, what was it that you were

15 concerned about?" 4:32PM

16 "Answer, Chelsie Bright:

17 Before the face rubbing, nothing."

18 MR. McKAY: Whoa, whoa, whoa, what else did

19 she say there? That wasn't her whole answer.

20 MR. MAYE: Well -- 4:32PM

21 MR. McKAY: Yeah, there's a lot more to

22 that.

23 BY MR. MAYE:

24 Q I'll read it. That's fine.

25 "Before the face rubbing, 4:32PM

1 nothing. I mean, we -- we were 4:32PM
2 just there for the safety of the
3 people. We look around. If we
4 see anything that we have never
5 seen before, we just kind of tell 4:32PM
6 each other. And then we are all
7 aware of that person. We all just
8 keep an eye out a little better on
9 the person that the one person --
10 the one flight attendant 4:33PM
11 mentioned."

12 "Question: Well, what if one
13 of your fellow flight attendants
14 says, 'Hey, look at that lady with
15 the pink hat and the big feather 4:33PM
16 in it'? That would be something
17 maybe you hadn't seen before,
18 right?"

19 "Answer: Yeah."

20 "And then the rest of the 4:33PM
21 flight you're going to do
22 surveillance on that lady?"

23 "No, because her pink hat
24 didn't -- didn't -- she didn't
25 have nothing to do with anybody 4:33PM

Page 215

1 else, I guess. The concept that 4:33PM
2 we are looking, we are always
3 looking, trying to look for
4 trafficking, I guess."

5 MR. McKAY: Boom. 4:33PM

6 MR. MAYE: Excuse me, John.

7 BY MR. MAYE:

8 Q "And that's something we always look
9 for."

10 "Question: Well, now that 4:33PM
11 we've gone from there wasn't a
12 risk to safety, it wasn't all that
13 concerning, to trafficking. So
14 let's talk about that." This is
15 Mr. McKay speaking. 4:34PM

16 "Well, I -- first of all,
17 does the company instruct you to
18 look for trafficking?"

19 "Answer: We have topics
20 about it. I mean, there's 4:34PM
21 something -- there's newsletters
22 that are sent out or just topics
23 that are sent out in e-mail about
24 the subject. And we're all aware
25 of it as flight attendants." 4:34PM

1 "Question: All right. When 4:34PM
2 you say 'are sent out,' you mean
3 sent out by Frontier to its
4 employees?"

5 "Yes." 4:34PM

6 "Question: And how often
7 have you received these things?"

8 "Answer: Only a couple
9 times. Maybe two or three."

10 "Question: Two times you 4:34PM
11 received e-mails or newsletters
12 about trafficking?"

13 "Yes."

14 MR. McKAY: And --

15 BY MR. MAYE: 4:35PM

16 Q Did you see anywhere where Chelsie
17 Bright said that she suspected that Peter DelVecchia
18 was trafficking A.D.?

19 MR. McKAY: Objection to the form.

20 THE WITNESS: Can you scroll back up, sir, 4:35PM
21 on page 61 where Chelsie herself first mentions --
22 Mr. McKay, the line of questioning was clearly
23 Ms. Bright was being asked to provide her observations
24 on Peter and A.D. prior to this and her answer.
25

Page 217

1 BY MR. MAYE:

4:35PM

2 Q Ma'am, I'm sorry. Are you reading
3 something or are you -- I'm not sure what you're --
4 are you answering my question?

5 MR. McKAY: She's answering your question.

4:35PM

6 THE WITNESS: I'm attempting to answer your
7 question.

8 MR. McKAY: You asked her where in that
9 testimony she saw --

10 MR. MAYE: Yes, I know. I'm not
11 following --

4:35PM

12 MR. McKAY: And she's responding.

13 MR. MAYE: John, I'm sorry.

14 BY MR. MAYE:

15 Q Ma'am, are you reading from the
16 transcript?

4:36PM

17 MR. McKAY: She was.

18 THE WITNESS: I was about to, as I was
19 answering your question. You asked if any of the

20 flight attendants said -- this whole discussion is
21 regarding Peter and A.D., and Ms. Bright says, "I

4:36PM

22 guess the concept that we were looking, we are always
23 trying to look for trafficking, I guess."

24 BY MR. MAYE:

25 Q Okay.

4:36PM

1 A So this whole conversation started with 4:36PM
2 did any of the flight attendants -- are you asking, if
3 you want to use specific verbiage, did they use Peter
4 and A.D.'s name in -- this whole conversation is about
5 Peter and A.D.'s behavior and what was allegedly amiss 4:36PM
6 and Ms. Bright used the word and introduced the
7 concept that they're always trying to look for
8 trafficking.

9 Q So that's the basis of your opinion
10 that Chelsie Bright -- strike that. 4:37PM

11 Are you saying that it's your opinion
12 that Chelsie Bright testified that she suspected that
13 Mr. DelVecchia was trafficking A.D.?

14 A I don't think there's any other way to
15 read her testimony than that the reason it was 4:37PM
16 concerning to her is that they are always trying to
17 look for trafficking. So the next natural place to go
18 for that is why didn't she follow her company
19 procedures to assuage her fears that this might be a
20 trafficking situation. 4:37PM

21 Q Right above that, 60. It says line 10.

22 "Now, nothing that Anna Bond
23 had said to you or that you had
24 observed indicated that these
25 people were a risk to the safety 4:38PM

Page 219

1 of the flight?" 4:38PM

2 "Absolutely not."

3 Is there anything in that question and
4 answer that would indicate to you that Chelsie Bright
5 suspected that Peter DelVecchia was human trafficking 4:38PM
6 A.D.?

7 MR. McKAY: Objection to the form.

8 THE WITNESS: I don't think we can pick
9 those two -- I think what is relevant is what was in
10 her testimony above that, that allegedly, where she 4:38PM
11 alleges that Flight Attendant Bond -- and they
12 completely contradict one another in their own
13 deposition testimony about how this whole thing
14 started, and that was during the reseating the
15 DelVecchias out of the exit row before the flight even 4:39PM
16 departed.

17 And Ms. Bright in her sworn deposition
18 says that Ms. Bond felt uncomfortable regarding what
19 she saw and experienced during that moving process;
20 and Ms. Bond in her own deposition testimony 4:39PM
21 completely refutes that and has a completely different
22 story.

23 BY MR. MAYE:

24 Q Ma'am, I'm asking about Chelsie Bright.

25 Mr. McKay -- we'll go up a little more. 4:39PM

Page 220

1 Line 5, page 60.

4:39PM

2 "Okay. All right. So

3 because Anna Bond felt

4 uncomfortable with what she had

5 seen and described it as a

4:39PM

6 situation, then you felt

7 uncomfortable as well?"

8 "Answer: I don't feel I felt

9 uncomfortable. I was just more

10 aware."

4:39PM

11 A Yeah, so suddenly she's now paying

12 attention to --

13 Q Hold on, ma'am. Ma'am. I haven't

14 asked a question. Please stop. I'm going to continue

15 reading.

4:40PM

16 She said, "I don't feel I felt

17 uncomfortable. I was just more aware."

18 "Question: Now, nothing that

19 Anna Bond had said to you or you

20 observed indicated these people

4:40PM

21 were a risk to safety of the

22 flight?"

23 "Absolutely not."

24 "Okay. So again, I ask you,

25 what was it that you were

4:40PM

Page 221

1 concerned about?" 4:40PM

2 "Answer: Before the rubbing,

3 the face rubbing, nothing. I

4 mean, we -- we were just there for

5 the safety of people. We look 4:40PM

6 around."

7 So I'm asking you, prior to the --

8 prior to Flight Attendant Bright observing the facial

9 stroking, is there testimony that Flight Attendant

10 Chelsie Bright suspected that Peter DelVecchia was 4:41PM

11 trafficking A.D.?

12 MR. McKAY: Objection to the form of the

13 question. This is ridiculous.

14 THE WITNESS: The testimony that I'm

15 referring to is on the next page in response to her 4:41PM

16 bringing up the concept of trafficking. She was the

17 first person to use the word. Mr. McKay didn't lead

18 her into that. It was her word. And the next natural

19 outcropping for a reasonable person would be to say,

20 "Well, you have procedures and protocol for that. 4:41PM

21 Why, if it's something you always look for, there's

22 some really simple things you can do, that the company

23 has provided to you that might help to assuage your

24 concerns, if that's something that's top of mind for

25 you." And my point in my report is that none of that 4:42PM

1 was done.

4:42PM

2 BY MR. MAYE:

3 Q My question is did Chelsie Bright

4 testify that she suspected that Peter DelVecchia was

5 trafficking A.D.? Did she testify to that? Did she 4:42PM

6 specifically say that in her testimony?

7 MR. McKAY: Objection to the form of the

8 question.

9 THE WITNESS: That is my interpretation of

10 her response on page 61, line 6 through 9. 4:42PM

11 BY MR. MAYE:

12 Q Okay. Thank you.

13 And is that the entirety of your

14 opinion that Chelsie Bright testified that she

15 suspected that Peter DelVecchia was trafficking A.D.? 4:43PM

16 MR. McKAY: Objection to the form of the

17 question.

18 BY MR. MAYE:

19 Q Page 60 and 61.

20 MR. McKAY: Objection to the form of the 4:43PM

21 question. She's already testified that there were

22 more pages.

23 BY MR. MAYE:

24 Q Ma'am?

25 A The deposition testimony continues 4:43PM

1 under the same vein. That was the beginning of the 4:43PM
2 discussion about trafficking, about what they -- I
3 mean, what the company instructs them to look for,
4 their instructional material, what --

5 Q Let's go on. We'll go on and read a 4:43PM
6 little more.

7 MR. McKAY: Can you not read my question so
8 quickly, because actually, I don't talk that quickly.
9 I sort of drawl like a southerner.

10 MR. MAYE: I'll try to do my best to mimic 4:44PM
11 you, John.

12 MR. McKAY: Thank you.

13 THE REPORTER: And if you could read just a
14 little bit slower, please.

15 THE WITNESS: Mr. Maye, if you'll allow, can 4:44PM
16 I -- you're asking me the question. Oh, you just took
17 it off the screen, but on subsequent pages there's a
18 discussion that, the entire discussion between
19 Mr. McKay and Ms. Bright --

20 MR. MAYE: We'll -- 4:44PM

21 MR. McKAY: Let her talk, please. Please.

22 MR. MAYE: Are we off the record?

23 THE WITNESS: No, you asked me if that was
24 the only -- are we off the record?

25 MR. McKAY: No. No, no. Go ahead. 4:44PM

1 THE WITNESS: You asked me if that was the 4:44PM
2 only place that there was a reference or my intimation
3 that Ms. Bright might have been following human
4 trafficking or she wasn't really following the
5 procedure, but be alerted to it. And it continues 4:44PM
6 throughout that testimony. Mr. McKay asked and I'm --
7 MR. MAYE: Ma'am --
8 THE WITNESS: So you felt like --
9 MR. MAYE: I'm going to put this up in a
10 second, and then we will find -- you're trying to 4:45PM
11 direct me where it is.
12 MR. McKAY: She did.
13 MR. MAYE: I will put this up in a second.
14 MR. McKAY: As the only one of us who was
15 there, I can tell you we talked about human 4:45PM
16 trafficking in that deposition.
17 MR. MAYE: Yes, I know. I know. Okay.
18 MR. McKAY: Because she brought it up.
19 Because Chelsie Bright brought it up.
20 MR. MAYE: Yes. Okay. Fine. 4:45PM
21 MR. McKAY: Do I think she really suspected
22 human trafficking? No. I think she saw a black child
23 with a white man.
24 MR. MAYE: Okay, John. That's not
25 appropriate. 4:45PM

1 MR. McKAY: It's the theme of the case. 4:46PM

2 MR. MAYE: Can we go off the record for a
3 second?

4 MR. McKAY: Yeah.

5 THE VIDEOGRAPHER: This marks end of Media 4:46PM
6 Number 4. The time is 4:46 p.m. We're off the
7 record.

8 (Recess.)

9 THE VIDEOGRAPHER: This marks the beginning
10 of Media Number 5. The time is 4:54 p.m. We're back 4:54PM
11 on the record.

12 BY MR. MAYE:

13 Q On page 65, Mr. McKay asks, "Didn't you
14 feel an obligation to question Anna Bond more about
15 why she was uncomfortable?" 4:54PM

16 MR. McKAY: You're not sharing, Brian.

17 MR. MAYE: Oh, Jesus. Sorry. Excuse me.
18 Here we go.

19 BY MR. MAYE:

20 Q Page 65, "Didn't you feel an obligation 4:54PM
21 to question Anna Bond more about why she was
22 uncomfortable?"

23 "No, because there are
24 situations that arise all the time
25 that could make us feel 4:54PM

1 uncomfortable for just a moment 4:54PM
2 and then, you know, nothing
3 happens. We still keep an eye on
4 it, especially when it's a kid's
5 safety." 4:54PM
6 "Question: And you felt that
7 A.D. was in an unsafe position?"
8 "Answer: I would say that he
9 wasn't. I didn't feel that he was
10 unsafe at that time, no." 4:55PM
11 Next question.
12 "Okay. Now let's get back to
13 the concept of trafficking because
14 it appears your employer is intent
15 on educating all of you flight 4:55PM
16 attendants on this concept of
17 trafficking. So I want to be
18 clear about what you understand
19 trafficking to be."
20 So on page 65, 66, 67, and 68, is there 4:55PM
21 anything -- and I'll scroll slowly -- is there
22 anything on these pages that support your view that
23 Chelsie Bright suspected -- I'm sorry. Let me ask
24 this question.
25 Are you aware of any testimony that 4:56PM

1 Chelsie Bright told -- I think I probably asked this, 4:56PM
2 but told any of the other flight attendants that she
3 suspected that Peter DelVecchia was trafficking A.D.?

4 MR. McKAY: Objection to the form of the
5 question. 4:56PM

6 THE WITNESS: With specificity using those
7 words, I already testified, no, that she didn't.
8 However --

9 BY MR. MAYE:

10 Q I'm sorry -- 4:56PM

11 MR. McKAY: She just said "However." That's
12 part of her answer.

13 BY MR. MAYE:

14 Q Well --

15 A However, we've skipped ahead -- 4:56PM

16 MR. MAYE: John, I think that you understand
17 that witnesses can be nonresponsive at times.

18 MR. McKAY: You don't get to --

19 MR. MAYE: I do.

20 MR. McKAY: In a deposition you are not the 4:57PM
21 judge of that. If you ask her a question, as that
22 judge that I read you earlier says, you've passed the
23 mic to her and her answer is going to be stated. Now,
24 you may not jump on her answer and stop her.

25 MR. MAYE: John, okay. 4:57PM

1 MR. McKAY: She said "However" and you need 4:57PM
2 to let her finish after "However."

3 MR. MAYE: I can communicate with the
4 witness and we can collectively agree that the
5 testimony should be directed in a different direction. 4:57PM
6 But I will let her answer.

7 MR. McKAY: Thank you.

8 MR. MAYE: But she answered my question.

9 MR. McKAY: She said "However."

10 MR. MAYE: Now, if she's answered my 4:57PM
11 question, I can move on.

12 BY MR. MAYE:

13 Q Ma'am, so your answer was you're not
14 aware of any testimony indicating that Chelsie Bright
15 told anyone that she suspected human trafficking. Is 4:57PM
16 that fair?

17 MR. McKAY: Objection to the form of the
18 question.

19 THE WITNESS: What I was going to say is we
20 left off previously before the break at 61, 62, and 4:58PM
21 now we're on 66. And it's my recollection, I mean,
22 I'd like to review those pages and I apologize that I
23 can't pull it up for myself. Scroll down a little
24 bit.

25 MR. McKAY: Now you've made it smaller. Can 4:58PM

Page 229

1 you make it large again? Can't you give her control? 4:58PM

2 MR. MAYE: No.

3 THE WITNESS: No, it's okay. Just keep
4 going down, if you would, please.

5 So this is what I recall, and this is 4:58PM
6 what I wanted to -- Mr. McKay asked, and this stuck in
7 my mind so I appreciate. On 62 she was asked, "So you
8 felt that by labeling Peter and A.D. as a situation to
9 keep an eye on that you were following Frontier's
10 policies?" 4:59PM

11 And that was specifically with regard
12 to trafficking which was being discussed just above
13 that, and that was something that stick out in my
14 mind. And you're asking did she tell another flight
15 attendant? No, she did not. And I want to answer 4:59PM
16 your question.

17 MR. MAYE: Okay.

18 THE WITNESS: But in her mind, this was --
19 and this whole thing started I think by my saying the
20 closest thing that I can get to that initially might 4:59PM
21 have been the concern or a reason to have their
22 awareness, you know, she was now aware, was that she
23 had trafficking in the back of her mind. Yet she
24 testified she was following Frontier's policy with
25 regard to that, yet she never initiated any of the 5:00PM

1 suspected human trafficking protocol that her employer 5:00PM
2 provided her. That's all.

3 BY MR. MAYE:

4 Q So let me ask you this. If flight
5 attendants do not suspect human trafficking, do not 5:00PM
6 suspect human trafficking, then there's no reason to
7 implement or invoke the human trafficking policy
8 report or protocol. Is that fair to say?

9 A I think that's fair insofar as they
10 don't have to follow it to the letter. If they have 5:00PM
11 some suspicions that they somehow can't identify or
12 put in a box, then I would opine that there's some
13 very good guidance in there that might help alleviate
14 any other concern they might have. Initiating a
15 conversation. 5:01PM

16 Q So are you saying that even though the
17 human trafficking policy may not perfectly fit the
18 circumstances, the flight attendants can certainly
19 rely on the content of the protocols for guidance
20 generally? 5:01PM

21 MR. McKAY: Objection to the form of the
22 question.

23 THE WITNESS: I think I'm saying there are
24 some useful tools in the protocol that the flight
25 attendants can put in their tool kit, if you will. 5:01PM

Page 231

1 That if they have some suspicions that they can't 5:01PM
2 quite put their finger on, or as Ms. Bright testified
3 to, sometimes there are things that make us
4 uncomfortable but we don't know why, and they abate or
5 they continue. 5:02PM

6 I think reasonable people could agree
7 that there are some good tools in there that give the
8 flight attendants some foundation to try and assuage
9 some of their concerns, even if it's not,
10 quote/unquote, human trafficking that they suspect. 5:02PM

11 BY MR. MAYE:

12 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] 5:02PM

13 MR. McKAY: Objection to the form of the
17 question.

18 THE WITNESS: You'd have to be more
19 specific, sir, in terms of asking if I share the same
20 view. 5:02PM

21 BY MR. MAYE:

22 Q Well, you said that a flight attendant
23 may not necessarily suspect human trafficking but that
24 policy may not necessarily need to be invoked to the
25 letter, but there's certainly good guidance or it 5:03PM

1 provides good guidance that the flight attendants can 5:03PM
2 utilize as a resource. Is that fair?

3 MR. McKAY: Objection to the form of the
4 question. No that wasn't fair. Objection.

5 THE WITNESS: I would rely upon what I 5:03PM
6 previously said. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 5:04PM

[REDACTED]

[REDACTED]

13 BY MR. MAYE:

14 Q With respect to human trafficking
15 policy, if flight attendants do not suspect human 5:04PM
16 trafficking, then there's no reason for -- there's no
17 obligation to implement or invoke the protocols set
18 forth in the policy. Do you agree with that?

19 MR. McKAY: Objection to the form of the
20 question. 5:04PM

21 THE WITNESS: I feel that there's a
22 distinction that has to be made between do they
23 suspect that that actually might be a potentiality but
24 they just haven't stated it to one another or -- I
25 mean, my opinion would be that if there's even a 5:05PM

1 far-reaching suspicion that that could be in play, as 5:05PM
2 Ms. Bright alluded to, then the protocol should be
3 followed.

4 BY MR. MAYE:

5 Q What I'm asking you is if the flight 5:05PM
6 attendants do not suspect human trafficking, are they
7 required to invoke the human trafficking policy and
8 implement the human trafficking policy?

9 MR. McKAY: Objection to the form of the
10 question. And assumes facts not in evidence. 5:05PM

11 THE WITNESS: If they don't suspect it
12 whatsoever and have no reason to, then no.

13 BY MR. MAYE:

14 Q And in this case, is it your testimony
15 that you believe that Chelsie Bright, based on her 5:05PM
16 testimony, suspected that Peter DelVecchia was
17 trafficking A.D.?

18 MR. McKAY: Objection to the form of the
19 question.

20 THE WITNESS: I believe her deposition 5:06PM
21 testimony reflects the fact that that was certainly a
22 consideration for her, yes.

23 BY MR. MAYE:

24 Q And because of that, you believe that
25 the flight attendants were obligated to implement and 5:06PM

1 invoke the human trafficking policy in this case? 5:06PM

2 A Yes.

3 Q And your opinions are based on your
4 interpretation of Chelsie Bright's testimony. Is that
5 fair? 5:06PM

6 MR. McKAY: Objection to the form.

7 THE WITNESS: Yes. And there is additional
8 testimony we didn't cover with regard to Ms. Bright's
9 characterization and direct quoting of what Anna Bond
10 relayed to her during the exit row reseating event, 5:07PM
11 which as I said, Ms. Bond later, her testimony didn't
12 line up with that at all. But to me that's where the
13 event started for both of them.

14 BY MR. MAYE:

15 Q Okay. So -- 5:07PM

16 A And they had a discussion about it.

17 Q So your opinion that the human
18 trafficking policy should have been invoked, should
19 have been implemented, and should have been followed
20 to the T, is based on your interpretation of the 5:07PM
21 testimony of Anna Bond and Chelsie Bright. Is that
22 fair?

23 MR. McKAY: Objection to the form.

24 THE WITNESS: I wouldn't say it's based upon
25 my interpretation. It's based upon my directly 5:07PM

1 reading what they testified to, that an adult 5:07PM

2 answering for a minor child might be an indication of

3 trafficking, et cetera, a bunch of things in there

4 that I said we didn't cover. But they did have a

5 discussion about that. And the closest possible 5:08PM

6 protocol at that point would be human trafficking.

7 BY MR. MAYE:

8 Q Did you see anywhere where Chelsie

9 Bright said specifically, "I suspected that Peter

10 DelVecchia was engaged in trafficking of A.D."? 5:08PM

11 MR. McKAY: Now you're just harassing her.

12 The question is compound.

13 BY MR. MAYE:

14 Q Did you see that testimony anywhere?

15 A Yeah, I've answered that, sir, already. 5:08PM

16 MR. McKAY: I have to stop if you're

17 harassing her. You know that.

18 BY MR. MAYE:

19 Q So ma'am, your opinion that the human

20 trafficking policy should have been invoked is based 5:08PM

21 on your review or your view of the testimony by

22 Chelsie Bright and Anna Bond. Is that fair?

23 MR. McKAY: Objection to the form.

24 THE WITNESS: It's based upon my review of

25 the conversation that Chelsie Bright in her sworn 5:09PM

1 deposition testimony said that she had -- the 5:09PM

2 interaction she had with Anna Bond and the items they
3 discussed that were indicative of human trafficking as
4 they had been trained, and she delineated them.

5 BY MR. MAYE: 5:09PM

6 Q Are your opinions that the human
7 trafficking policy should have been invoked, is that
8 based on anything else?

9 MR. McKAY: Objection to the form.

10 THE WITNESS: It's based on the fact that 5:09PM
11 they had been provided specific training, and only
12 less than two weeks prior. I believe my report
13 alludes to when they were provided this protocol. If
14 they were discussing amongst themselves even one or
15 two criteria that might give them pause, or cause them 5:10PM
16 to even bring trafficking to the forefront, then the
17 policy should have been invoked.

18 BY MR. MAYE:

19 Q So your opinion is based on your
20 reading of their testimony? 5:10PM

21 MR. McKAY: Objection to the form.

22 BY MR. MAYE:

23 Q Is that fair?

24 MR. McKAY: Objection to the form.

25 THE WITNESS: That's fair. 5:10PM

Page 237

1 BY MR. MAYE:

5:10PM

2 Q Now, if there was some concern or --
3 strike that.

4 When Chelsie Bright observed

5 Mr. DelVecchia stroking A.D.'s face in a manner that

5:11PM

6 she felt was not parent-like and made her

7 uncomfortable, and she brought this to the attention

8 of Captain Shupe, would you agree that at that point

9 Chelsie Bright suspected potential sexual misconduct

10 had been committed?

5:11PM

11 MR. McKAY: Objection to the form.

12 THE WITNESS: I don't know, sir. She didn't

13 articulate anything other than the facial touching and

14 her being uncomfortable with it.

15 BY MR. MAYE:

5:12PM

16 Q I thought she characterized it as not

17 parent-like, made her uncomfortable, and it concerned

18 her so much that she actually wanted to talk to the

19 pilot or the captain personally. Based on those

20 facts, do you believe that at that point Chelsie

5:12PM

21 Bright possibly suspected that sexual misconduct had

22 been committed by Mr. DelVecchia against A.D.?

23 MR. McKAY: Objection to the form.

24 THE WITNESS: I believe that -- I believe

25 that we don't leave things open to interpretation. I

5:12PM

1 believe that if that's what she suspected, then that's 5:12PM
2 what she should have stated to Captain Shupe.

3 BY MR. MAYE:

4 Q Well, she didn't ever tell Captain
5 Shupe that she suspected that Peter DelVecchia was 5:12PM
6 trafficking A.D., did she?

7 MR. McKAY: Objection to the form.

8 THE WITNESS: No, sir, in fact she didn't.
9 And I really think the whole reason we're here at all
10 is because there was no clear communication or effort 5:13PM
11 to fact-find or data-gather. No, she didn't call the
12 cockpit when she was having a discussion with Ms. Bond
13 about things that were raising the hair on the back of
14 their neck because they were in their human
15 trafficking training. Perhaps she should have gone to 5:13PM
16 the cockpit at that point.

17 BY MR. MAYE:

18 Q So let me understand you. Flight
19 Attendant Chelsie Bright notified the captain that she
20 observed Mr. DelVecchia stroking the face of A.D. in a 5:13PM
21 manner that she believed was not parent-like, and it
22 made her uncomfortable. She was concerned, and she
23 brought this to the attention of the captain, and it's
24 your opinion that it's not possible that she was
25 suspecting potential sexual misconduct having been 5:14PM

1 committed by Mr. DelVecchia against A.D.? 5:14PM

2 MR. McKAY: Objection to the form.

3 THE WITNESS: I don't believe that's my
4 testimony, sir. What I testified to is that she
5 didn't state that that was a concern of hers. And I 5:14PM

6 can't get inside her head. The word "sexual," at the
7 point she relayed her concern to the captain was not
8 used, so I don't know what she thought. And I already
9 testified to that at least five times, in addition to
10 describing watching Ms. Bright stroke her own face in 5:14PM
11 the deposition testimony, that seems completely
12 innocuous to me. So to make the jump from why that
13 made her uncomfortable to sexual, and should I know or
14 glean from that that that's what she was thinking? I
15 can't. 5:15PM

16 MR. McKAY: Brian, do you have any new
17 ground to cover because if you don't, this is just
18 harassing and I'm going to have to terminate it.

19 MR. MAYE: Okay, John. If you want to try
20 to terminate it, that's fine, and we can talk to the 5:15PM
21 judge.

22 MR. McKAY: Well, my question for you is are
23 you going to cover anything new or are you just going
24 to circle around this same issue?

25 MR. MAYE: I'm going to continue with my 5:15PM

Page 240

1 questions.

5:15PM

2 MR. McKAY: Well, then I guess we'll find

3 out whether I terminate it.

4 MR. MAYE: Okay.

5 BY MR. MAYE:

5:15PM

6 Q So is it your testimony that you don't

7 believe that the sexual misconduct policy applied in

8 the circumstances of this case?

9 MR. McKAY: Objection to the form.

10 THE WITNESS: There are myriad circumstances 5:15PM

11 in this case. You're going to have to be more

12 specific.

13 BY MR. MAYE:

14 Q The fact that Chelsie Bright told the

15 captain that she suspect -- that she observed extended 5:16PM

16 stroking of the face by Mr. DelVecchia of A.D., it

17 made her uncomfortable, that she asked to have a --

18 asked to come into the cockpit to talk to the captain

19 about this, and then Flight Attendant Warren notified

20 the captain that he observed Peter DelVecchia's hand 5:16PM

21 on A.D.'s crotch, and that the flight attendants

22 recommended to the captain that they believe that A.D.

23 should be separated from Mr. DelVecchia.

24 Based on those facts, do you believe

25 that the sexual misconduct policy applied in this

5:16PM

Page 241

1 case?

5:16PM

2 MR. McKAY: Objection to the form of the
3 question. Assumes facts not in evidence.

4 THE WITNESS: Once again, sir, with all due
5 respect, you just skipped over the entire chronology
6 and escalating nature of what actually happened on
7 board the flight. And the second part of my answer
8 would be that the sexual misconduct policy, as it is
9 written, requires the sexual misconduct be reported by
10 the victim as we've already discussed.

5:17PM

5:17PM

11 BY MR. MAYE:

12 Q Okay. So do you believe that because
13 A.D. never reported sexual misconduct, that that
14 policy did not apply?

15 A That mischaracterizes my testimony.
16 What I'm saying, sir, is that the -- throughout this
17 entire day you have alluded to a suspected sexual
18 molestation policy, when in fact there is no such
19 animal. And --

5:17PM

20 Q Can I ask you this? I just asked you,
21 I'm trying to address this point with you.

5:18PM

22 The policy, which we can bring up, the
23 policy says, "Once an incident involving sexual
24 misconduct is reported to a flight attendant." So
25 that's the beginning, right?

5:18PM

1 A No, actually, the beginning is at the 5:18PM
2 top of the page. But I'll let you go ahead.

3 Q What I'm asking, ma'am, is according to
4 the policy, "Once an incident involving sexual
5 misconduct is reported to a flight attendant," and 5:19PM
6 then the policy goes on to explain the protocol
7 regarding responding to that reported sexual
8 misconduct. Is that fair?

9 A I listed that the procedure that was
10 provided to the flight attendants regarding reported 5:19PM
11 sexual misconduct is -- I put it in my report in its
12 entirety there.

13 Q So that's fair. You agree with me?

14 A That's fair.

15 MR. McKAY: Objection. 5:19PM

16 BY MR. MAYE:

17 Q Now, if a flight attendant observes a
18 child get sexually assaulted by an adult on a flight,
19 is it your testimony that this policy doesn't apply
20 because the flight attendant observed it and it wasn't 5:20PM
21 the child that reported it?

22 MR. McKAY: Objection to the form.

23 BY MR. MAYE:

24 Q Is that your opinion?

25 A Is that my opinion or testimony? No. 5:20PM

Page 243

1 We've covered this ad infinitum before the lunch 5:20PM

2 break. I've already testified that --

3 Q Can this policy -- can this policy
4 apply even though a victim on a flight doesn't report
5 to the flight attendant that they've been sexually 5:21PM
6 assaulted?

7 A I don't understand the question. How
8 would it be -- under what theory then would we be
9 going through all or part of this? Just a flight
10 attendant observation? 5:21PM

11 Q That's right. A flight attendant
12 observed a child get sexually assaulted by an adult.
13 The child doesn't report it. The flight attendant
14 observes it. And the child --

15 A How do we know that the flight 5:21PM
16 attendant is observing what he or she thinks they're
17 actually observing? How do we know that?

18 Q Ma'am, what I'm asking you is if a
19 flight attendant observes sexual misconduct committed
20 against a child by an adult, and the child does not 5:22PM
21 report it, does this policy apply?

22 MR. McKAY: Objection to the form of the
23 question.

24 THE WITNESS: I believe I've answered it
25 previously, sir. It's just -- it's not what this 5:22PM



1 policy is written for. And once again, I will state 5:22PM
2 for the record that there's no policy in place, this
3 or any other policy that I've reviewed, that allows
4 the flight attendant to make a determination of sexual
5 misconduct or sexual assault -- and we've talked about 5:22PM
6 the difference between those two words -- on behalf of
7 the victim. That policy does not exist.

8 BY MR. MAYE:

9 Q So are you saying Frontier does not
10 have a policy addressing how to respond to a situation 5:23PM
11 in which a flight attendant observes a passenger being
12 sexually assault by another passenger, and there's no
13 guidance or policy on how that flight attendant is
14 supposed to respond?

15 MR. McKAY: Objection to the form of the 5:23PM
16 question.

17 THE WITNESS: Mr. Maye, we covered this ad
18 infinitum earlier, once again. What I testified to,
19 and I will try to summarize it again, is that if a
20 flight attendant firmly believed with all of his or 5:23PM
21 her conviction that he or she was witnessing an
22 assault, take place in real time, they are trained --
23 they are trained to intervene for the safety and
24 security of the passenger. Once they are sure about
25 what they're seeing, yes, period. And that is not ' 5:24PM

Page 245

1 what we're talking about here.

5:24PM

2 MR. McKAY: Okay. Brian, if the next
3 question is on the same topic, I have to terminate the
4 deposition because --

5 MR. MAYE: Okay. John, I'm going to
6 continue with my deposition. I'm going to continue
7 with my deposition.

5:24PM

8 BY MR. MAYE:

9 Q Ma'am, so in this case, you don't
10 believe that this policy applied. Is that what you're
11 saying? 5:24PM

12 MR. McKAY: Okay, I'm terminating the
13 deposition. You're harassing the witness.

14 MR. MAYE: I'm not harassing the witness.

15 MR. McKAY: You are.

5:25PM

16 MR. MAYE: Maybe I'm not the -- not that I'm
17 the quickest guy in the world, but I'm --

18 MR. McKAY: Sorry. You are.

19 MR. MAYE: -- not sure I totally understand.

20 MR. McKAY: I told you if you ask the next
21 question on the same topic -- 5:25PM

22 MR. MAYE: You're going to tell her --
23 you're going to terminate -- how can you terminate the
24 deposition?

25 MR. McKAY: I can.

5:25PM



1 MR. MAYE: What authority? 5:25PM

2 MR. McKAY: Harassing the witness allows an
3 attorney to terminate the deposition.

4 MR. MAYE: Okay, so you're terminating it?

5 MR. McKAY: Yes. 5:25PM

6 MR. MAYE: Okay. We're going to bring this
7 up to the court.

8 MR. McKAY: Good. Thank you.

9 MR. MAYE: Let's stay on the record so we
10 can note what Mr. McKay has done. So I am not 5:25PM
11 finished with my deposition of Captain Norton. I
12 still have additional questions to ask her.

13 MR. McKAY: And I invited you to move on to
14 them.

15 MR. MAYE: Okay. We'll move on to those, 5:26PM
16 and then we'll come back to the other stuff.

17 MR. McKAY: No, don't come back to the other
18 stuff.

19 MR. MAYE: We'll try, and then we can go on
20 the record about your objections to it. 5:26PM

21 MR. McKAY: If you have new questions about
22 new subjects to ask, go ahead.

23 MR. MAYE: Okay.

24 MR. McKAY: But I need some time to cross.

25 So you're getting very close to the end of six and a 5:26PM

1 half hours. You've got about 15 minutes left. 5:26PM

2 BY MR. MAYE:

3 Q Ma'am, regarding your opinion that the
4 sexual misconduct policy didn't apply, is that based
5 on your review of the deposition testimony in this 5:26PM
6 case?

7 MR. McKAY: Objection to the form of the
8 question.

9 THE WITNESS: No. And this doesn't feel
10 like a new topic, but no. 5:27PM

11 MR. McKAY: It is not.

12 BY MR. MAYE:

13 Q You said "no"?

14 A I said "no."

15 MR. McKAY: Yeah. And she said it's not a 5:27PM
16 new topic and she's right. Do you have a new topic?

17 MR. MAYE: I'm not sure if that's a topic we
18 covered. She said "no."

19 BY MR. MAYE:

20 Q So ma'am, your opinion that the policy 5:27PM
21 doesn't apply is based on something other than
22 deposition testimony?

23 MR. McKAY: Objection to the form of the
24 question.

25 THE WITNESS: The policy doesn't apply 5:27PM

1 simply because the policy is intended to cover a 5:27PM
2 report of sexual misconduct to a flight attendant by a
3 victim of such misconduct.

4 BY MR. MAYE:

5 Q And is that opinion based on -- strike 5:27PM
6 that.

7 So you've made that opinion based on
8 the fact that -- just a reading of Frontier's policy.
9 You read the policy. You've read what happened in the
10 case. And you've determined that in this case A.D. 5:28PM
11 never reported he was sexually assaulted, so this
12 policy doesn't apply. Is that fair?

13 MR. McKAY: Objection to the form of the
14 question.

15 THE WITNESS: Not only did he not report it. 5:28PM
16 Nobody bothered to ask him whether he was being --
17 whether any action was being taken against him that he
18 found objectionable. So all of that, and then the
19 rest of my answer.

20 BY MR. MAYE: 5:29PM

21 Q Regarding Number 3. Well, let me ask
22 you this.

23 Let's go off the record for one second
24 so I can ask the videographer how much time we have
25 left. 5:29PM

1 THE VIDEOGRAPHER: Counsel, did you say you 5:29PM
2 want to go off the record?

3 MR. MAYE: Yes, please.

4 THE VIDEOGRAPHER: Okay. Going off the
5 record. The time is 5:30 p.m. 5:29PM

6 (Recess.)

7 THE VIDEOGRAPHER: The time is 5:35 p.m.
8 We're back on the record.

9 BY MR. MAYE:

10 Q Captain, have you played a management 5:35PM
11 role at United in developing policy regarding
12 responding to sexual misconduct?

13 A I have not.

14 Q Have you played a management role in
15 developing policy regarding responding to human 5:35PM
16 trafficking?

17 A I have not.

18 Q Have you had any bias training at
19 United with respect to conducting investigations?

20 A I'm sorry. Could you repeat that, sir? 5:35PM

21 Q Have you had any bias training at
22 United with respect to conducting investigations?

23 A When you say conducting investigations,
24 do you mean for this job, for my second job, or do you
25 mean investigations at United? 5:36PM

Page 250

1 Q At United.

5:36PM

2 A No, sir.

3 Q Have you had any training at United

4 regarding conducting investigations at United?

5 A No.

5:36PM

6 Q Have you had any bias training at MEA

7 Forensics with respect to conducting investigations?

8 A I wouldn't say formal bias training,

9 but it is a part of our discussed protocol and policy

10 that we hold in very high esteem, that we are neutral

5:36PM

11 expert witnesses, which includes not being biased.

12 Q Have you had any training at MEA

13 Forensics regarding conducting investigations?

14 A Yes.

15 Q When did you have that training?

5:37PM

16 A Well, if you're talking about formal

17 training, it's -- I mean, I'm just talking about

18 ongoing -- when I joined the company in 2009, I was an

19 engineer that had participated in training and

20 investigation when I worked for McDonnell Douglas, but

5:37PM

21 I hadn't conducted them in the manner that MEA

22 Forensics conducts them. So it's not formal training

23 where I could cite you -- I did do some training, I

24 think it's in my resumé, at USC Viterbi School of

25 Aviation. But it would help if we could be more

5:38PM



Page 251

1 specific.

5:38PM

2 Q Is there an industry standard for
3 pilots responding to suspected human trafficking?

4 A For pilots?

5 Q Yes.

5:38PM

6 A Well, sir, as we discussed pretty much
7 all day, the standard is to ensure that the flight
8 attendants comply with their industry standard
9 provided training and then the pilots, the captain
10 specifically then, after ensuring that has happened,
11 then takes it from there and decides the next course
12 of action.

5:38PM

13 Q And that industry standard is set forth
14 where?

15 A As we've already discussed in the
16 global realm of what the duties and responsibilities
17 and standard of care for a pilot in command are, it's
18 just one of the myriad of responsibilities.

5:38PM

19 Q So I'm sorry. Can you identify a
20 specific federal regulation or standard of care
21 regarding what dictates what a pilot must do in
22 response to suspected human trafficking?

5:39PM

23 MR. McKAY: Objection to the form of the
24 question.

25 THE WITNESS: I testified several times

5:39PM



1 earlier, sir, that there is no specific FAR that 5:39PM
2 covers pilot actions for suspected human trafficking.
3 Rather, as PIC, I, under the FAR that deems that I am
4 in command and control of the aircraft and responsible
5 for the safety and security of all of its occupants, I 5:39PM
6 ensure that the flight attendants follow their
7 guidance and training and protocols as part of my
8 responsibility as PIC.

9 BY MR. MAYE:

10 Q Have you been in a position with United 5:40PM
11 to create manual changes?

12 A We are all in a position to be able
13 to -- all pilots are in a position and have an avenue
14 by which they can suggest either correcting errata or
15 suggesting a better way to have manual -- information 5:40PM
16 that's in the manual read.

17 Q Have you been involved in any manual
18 changes surrounding the topics of suspected human
19 trafficking or suspected sexual misconduct?

20 A I have not. 5:41PM

21 Q Do you know whether the FAA has
22 accepted any proposals regarding a pilot's response to
23 sexual misconduct?

24 A I do not.

25 Q Do you know if the FAA has accepted any 5:41PM

Page 253

1 proposals regarding pilot's response to human
2 trafficking?

5:41PM

3 A I do not.

4 [REDACTED]

5 [REDACTED]

5:42PM

[REDACTED]

[REDACTED]

8 MR. McKAY: Objection to form.

9 THE WITNESS: I don't understand the

10 question.

5:42PM

11 BY MR. MAYE:

12 Q [REDACTED]

13 [REDACTED]

[REDACTED]

[REDACTED]

5:42PM

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5:43PM

[REDACTED] MR. McKAY: Objection to the form.

[REDACTED] THE WITNESS: Insofar as I understand your

23 question, sir, I would say no.

24 BY MR. MAYE:

25 Q Absent a specific guideline, can a

5:43PM

Page 254

1 [REDACTED] 5:43PM

2 [REDACTED]

3 [REDACTED]

4 MR. McKAY: Objection to the form.

5 THE WITNESS: I would ask you to explain 5:43PM

6 what it means by "taking portions."

7 BY MR. MAYE:

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] 5:43PM

11 MR. McKAY: Objection to the form.

12 THE WITNESS: No.

13 BY MR. MAYE:

14 Q When making a decision in flight about

15 responding to a safety concern, are flight conditions 5:44PM

16 a factor?

17 A I don't understand the question.

18 MR. McKAY: Objection to the form.

19 BY MR. MAYE:

20 Q In how a captain is responding to a 5:44PM

21 certain scenario, a passenger issue in flight, flight

22 attendant notifies the captain that there's a

23 disruptive passenger, are the flight conditions that

24 the captain is facing or experiencing a factor in his

25 or her response to the passenger incident? 5:45PM

Page 255

1 MR. McKAY: Objection to the form. 5:45PM

2 THE WITNESS: Sir, do you mean the

3 external --

4 MR. MAYE: Yes.

5 THE WITNESS: -- i.e., the weather 5:45PM

6 conditions --

7 MR. MAYE: Yes.

8 THE WITNESS: -- whether I'm VFR or IMC or

9 turbulent?

10 MR. MAYE: Yes. 5:45PM

11 THE WITNESS: No, that is not a

12 consideration.

13 BY MR. MAYE:

14 Q So do you -- you don't agree that it

15 would be important for you to know what the flight 5:45PM

16 conditions were during this flight in assessing

17 whether Captain Shupe properly responded to the

18 reported sexual misconduct on the subject flight?

19 MR. McKAY: Objection to the form.

20 THE WITNESS: It's irrelevant, sir. I mean, 5:46PM

21 it's not relevant.

22 BY MR. MAYE:

23 Q Okay.

24 A That's why there are two pilots.

25 ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ 5:46PM

Page 256

1 applied in this case?

5:46PM

2 A I do not.

3 Q Why not?

4 A For all the reasons my report

5 delineated. [REDACTED] 5:47PM

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 Q We don't have much time, ma'am.

5:47PM

11 MR. McKAY: You asked the question.

12 MR. MAYE: I didn't ask her to go through

13 the background.

14 MR. McKAY: Let her answer, please.

15 THE WITNESS: Okay, sir, I'll try to make it 5:47PM

16 short. I get it.

17 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5:47PM

21 BY MR. MAYE:

22 Q So you don't believe that the safety

23 and security of the flight was at risk based on the

24 suspected sexual misconduct?

25 A Do I believe the safety and security of 5:48PM

Page 257

1 the flight was at risk? No, I do not.

5:48PM

2 [REDACTED]
[REDACTED]
[REDACTED]

5 A Are they of any use?

5:48PM

6 Q As a resource.

7 MR. McKAY: Objection. Asked and answered.

8 Objection to the form.

9 [REDACTED]

10 [REDACTED]
[REDACTED]
[REDACTED]

5:48PM

13 BY MR. MAYE:

[REDACTED]
[REDACTED]

5:49PM

[REDACTED] I would agree with that.

[REDACTED] And would you agree that Captain Shupe

18 did not reference or consult his ops manual until

19 after he made the decision to separate A.D. from

20 Mr. DelVecchia?

5:49PM

21 A [REDACTED]

22 [REDACTED]
[REDACTED]

24 MR. McKAY: Objection to the form.

25 [REDACTED]

5:50PM

Page 258

1 [REDACTED].

5:50PM

2 BY MR. MAYE:

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

5:51PM

6 A Yes.

7 Q Do you agree that law enforcement has
8 significantly more training than flight attendants and
9 pilots regarding determining whether a child is at
10 risk?

5:52PM

11 A I don't have an opinion about that. I
12 don't have enough information to answer that question,
13 sir.

14 Q Do you agree that law enforcement has
15 significantly more training than flight attendants and
16 pilots regarding whether a child is potentially being
17 human trafficked?

5:52PM

18 A I have no opinion or information on
19 that either.

20 Q Are you familiar with the 119?

5:52PM

21 MR. McKAY: Objection to the form.

22 THE WITNESS: The 119? You'll have to tell
23 me what -- not in those terms.

24 BY MR. MAYE:

25 Q Are you familiar at all with The Big

5:52PM

Page 259

1 Five?

5:52PM

2 MR. McKAY: Objection to the form. Lacks
3 any context.

4 THE WITNESS: Yeah, I don't know what we're
5 talking about right now.

5:52PM

6 BY MR. MAYE:

7 Q Your opinions in this case -- strike
8 that.

9 Are you familiar with CAST?

10 MR. McKAY: Objection to the form. No
11 context.

5:53PM

12 THE WITNESS: Are you saying an acronym?

13 MR. MAYE: Yes.

14 THE WITNESS: Could you spell out what the
15 acronym is.

5:53PM

16 MR. MAYE: C-A-S-T.

17 THE WITNESS: No, I'm not. I thought you
18 were saying CAS, which must be something totally
19 different.

20 BY MR. MAYE:

5:53PM

21 Q So you don't have access to CAST?

22 A You'd have to tell me what it is, sir,
23 first.

24 Q Okay. So I guess you must not if you
25 don't know what it is. Okay.

5:53PM

1 MR. McKAY: Objection to the form. 5:53PM

2 Objection. Motion to strike.

3 BY MR. MAYE:

4 Q Do you have access to CAST?

5 MR. McKAY: You haven't told her what CAST 5:53PM

6 is, or me. CAST means to throw a fishing lure out

7 into a lake. I have access to that. Is that what

8 you're asking?

9 BY MR. MAYE:

10 Q Ma'am, do you have access to a system 5:54PM

11 referred to as C-A-S-T, CAST?

12 A Can you spell out, sir, what the

13 acronym stands for, and I might be able to help?

14 MR. McKAY: You're not going to explain it,

15 Brian? 5:54PM

16 MR. MAYE: No, I don't think it's necessary.

17 MR. McKAY: You asked.

18 BY MR. MAYE:

19 Q Under the Frontier flight ops, would

20 you agree that the captain can elect to speak to any 5:55PM

21 flight attendant he chooses under any circumstances?

22 A Under the Frontier FOM, I would have to

23 look that up. I mean, in general terms a flight

24 attendant or a captain can just by his or her

25 authority, can speak to any or all of his flight 5:55PM

Page 261

1 attendants.

5:55PM

2 Q Your conclusions and opinions on page
3 13, Number 7, you state that "Captain Shupe did not
4 follow his training and guidance in accordance with
5 Number 1 through 6 above, throughout Flight 2067."

5:56PM

6 With respect to Number 1, you say that
7 "Captain Shupe was the pilot in command of Frontier
8 Flight 2067 on March 28, 2019, and had authority over
9 all assigned crew members on the flight throughout the
10 flight time."

5:57PM

11 How did Captain Shupe not follow his
12 training and guidance with respect to being the pilot
13 in command and having authority over all assigned crew
14 members?

15 A He did not direct the crew members
16 to -- his flight attendants to follow their applicable
17 policies and procedures.

5:57PM

18 Q And is there a federal regulation
19 requiring the captain to instruct the flight
20 attendants to follow their protocols and procedures?

5:57PM

21 MR. McKAY: Objection. Asked and answered
22 multiple times.

23 THE WITNESS: Yeah, the same one I refer you
24 back to every time we discuss this.

25

1 BY MR. MAYE:

5:58PM

2 Q Is that the general overarching --

3 A Yes, sir.

4 Q -- regulation?

5 Regarding Number 2, "Captain Shupe was 5:58PM

6 designated as the ISC on Flight 2067 and was

7 responsible for, among other things, crew coordination

8 and awareness, passenger comfort and satisfaction and

9 compliance with all regulations, company policies and

10 procedures."

5:58PM

11 How did Captain Shupe not follow his

12 training and guidance with respect to his being the

13 ISC? I'll leave it at that.

14 MR. McKAY: Objection to the form.

15 THE WITNESS: Essentially it's the same 5:58PM

16 answers, sir, that we've discussed and that my report

17 details; that there were things that Captain Shupe

18 could have easily done to coordinate his crew and

19 enhance his own situational awareness with respect to

20 what was happening with the DelVecchias. Certainly 5:59PM

21 didn't ensure the DelVecchias comfort and

22 satisfaction, and he didn't ensure that his flight

23 attendants follow their company policies and

24 procedures.

25

Page 263

1 BY MR. MAYE:

5:59PM

2 Q And what is the regulation or industry
3 standard that you base that opinion on? Again, the
4 overarching regulation?

5 A Yes, sir. Yeah. You can just apply
6 that all the way down if that makes it easier.

5:59PM

7 Q Number 3, "Captain Shupe was expected
8 to uphold the rules and regulations established by the
9 Department of Homeland Security for aircraft
10 operators. This includes the appropriate use of the
11 security levels."

6:00PM

12 How did Captain Shupe not follow his
13 training and guidance with respect to Number 3?

14 MR. McKAY: [REDACTED]

15 [REDACTED]

6:00PM

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6:00PM

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25 MR. McKAY: Objection to form.

6:01PM

1 THE WITNESS: Inexplicably he did, yes. 6:01PM

2 BY MR. MAYE:

3 Q Number 4, "Captain Shupe was trained
4 and expected to utilize good communication that
5 minimize opportunities for misunderstandings and 6:01PM
6 inaccurate assumptions."

7 How did Captain Shupe not follow his
8 training and guidance with respect to Number 4?

9 A As we've discussed the majority of the
10 day, Captain Shupe was trained and expected to 6:01PM
11 communicate with his flight attendants and give them
12 direction in a way that would uncover any ambiguity or
13 assuage any concerns, including instructing them to go
14 back and have a conversation with the DelVecchias, try
15 to gain, as we talked about earlier, more data points. 6:02PM
16 Speak to -- as far as dispatch, try to get some more
17 information. Essentially --

18 Q Putting your --

19 MR. MCKAY: You just cut her off.

20 MR. MAYE: I'm sorry. 6:02PM

21 THE WITNESS: He was trained and expected to
22 do any and all things within his power to not make an
23 assumption about what should happen to this family in
24 the absence of any viable information.

25

Page 265

1 BY MR. MAYE:

6:02PM

2 Q Regarding your opinion that Captain
3 Shupe should have had the flight attendants go get
4 additional information from the DelVecchias, is that
5 based on the overarching regulation?

6:03PM

6 MR. McKAY: Objection to the form.

7 THE WITNESS: It's based on the overarching
8 regulation, but it's also based upon training required
9 to become a captain in command of a transport-category
10 passenger-carrying aircraft.

6:03PM

11 BY MR. MAYE:

12 Q Is that based on any specific
13 regulation pertaining to responding to reported or
14 suspected sexual misconduct?

15 MR. McKAY: Objection to the form.

6:03PM

16 THE WITNESS: It's non-subject specific. It
17 covers using -- it covers the bulk of his training
18 regarding -- I'm sorry. Let me slow down.

19 Regardless of the situation at hand,
20 that is what the captain is expected to do always.

6:04PM

21 BY MR. MAYE:

22 Q Number 5, "Captain Shupe was trained
23 and expected to properly use his authority and
24 leadership to reach a resolution consistent with the
25 highest standards of safety and professionalism."

6:04PM

1 MR. McKAY: Can you slow down, please. I 6:04PM
2 can't imagine the court reporter can keep up with
3 that, Brian.

4 MR. MAYE: Well, we're pressed for time and
5 it's right on the screen, but okay. 6:04PM
6 BY MR. MAYE:

7 Q Number 5, "Captain Shupe was trained
8 and expected to properly use his authority and
9 leadership to reach a resolution consistent with the
10 highest standards of safety and professionalism." 6:04PM
11 How is that not followed with respect
12 to his training and guidance?

13 A In all the ways we've discussed
14 throughout the bulk of the day. His failure to
15 utilize the dispatcher. His failing to guide his 6:05PM
16 flight attendants to gather and seek more information
17 for him to make good decisions. We've talked about
18 all of it.

19 Q Number 6, "Captain Shupe was trained
20 and expected to identify, assess and counter any issue 6:05PM
21 or event threatening the safety of the flight, and not
22 introduce additional threats or errors by failing to
23 do so."

24 How did he not follow his training and
25 guidance with respect to Number 6? 6:05PM

1 A He committed an egregious error, in my 6:05PM
2 opinion, by ordering the minor child, A.D., to be
3 separated from his father without any fact-finding or
4 data gathering, other than what was just being relayed
5 to him by flight attendant observations. 6:06PM

6 Q Can a captain rely on observations made
7 by his or her flight attendants to make decisions
8 about how to respond in a reasonable fashion to a
9 safety concern in the cabin?

10 A He or she can certainly take those 6:06PM
11 observations as one piece of the overall data used to
12 contribute to making a decision.

13 Q Can a captain solely rely on the
14 observations of flight attendants in making a decision
15 regarding responding to a passenger safety concern? 6:06PM

16 A I would say it would be unwise to rely
17 solely upon hearsay to make -- it depends on, again,
18 we're situationally dependent. What's the concern in
19 the back. What scenario are we talking about. It
20 can't always be lumped into one category. 6:07PM

21 As I previously testified to, certainly
22 the observations of my flight attendants come into
23 play in my overall decision-making. However, I would
24 opine that it's not my sole data point, especially
25 when I have the opportunity to gather more. 6:07PM

1 Q Is it permissible under the federal 6:07PM

2 regulations for a captain to solely rely on

3 observation of his flight attendants in responding to

4 a passenger safety concern?

5 MR. McKAY: Objection to the form. 6:08PM

6 THE WITNESS: There's not a Federal Aviation

7 Regulation that covers that topic. Again, it's the

8 overarching PIC in command that we've talked about all

9 day.

10 BY MR. MAYE: 6:08PM

11 Q So can a captain rely solely on

12 observations of flight attendants in responding to a

13 passenger safety concern in the cabin?

14 MR. McKAY: Objection to the form.

15 THE WITNESS: Can he? 6:08PM

16 BY MR. MAYE:

17 Q Under the regulations.

18 A It's not -- again, sir, it has nothing

19 to do with regulations. Can he or she rely solely

20 upon that? If that's the extent to which they want to 6:08PM

21 do their job, they have the ability to do that, which

22 is what "can" means.

23 Q Okay. It wouldn't be a violation of

24 any federal regulation for the pilot -- for the

25 captain to rely solely on the observations of flight 6:09PM

1 attendants in responding to a passenger safety concern 6:09PM
2 in the cabin?

3 MR. McKAY: Objection to the form.

4 THE WITNESS: It would not violate an FAR.

5 MR. MAYE: Okay. Can we go off the record? 6:09PM

6 MR. McKAY: No.

7 MR. MAYE: We can't go off the record?

8 MR. McKAY: No. Finish your deposition,
9 please.

10 MR. MAYE: I am probably finished. 6:09PM

11 MR. McKAY: Okay.

12 MR. MAYE: And I want to go off the record
13 to make sure I'm finished.

14 MR. McKAY: You can finish right here.

15 MR. MAYE: Let's go off the record, please. 6:09PM

16 MR. McKAY: I don't want to go off the
17 record.

18 MR. MAYE: Well, I want to go off the
19 record.

20 MR. McKAY: Well, I don't. 6:09PM

21 MR. MAYE: Okay. Fine.

22 Court Reporter, can you note the time
23 right now.

24 THE REPORTER: Sure. It is 4:09.

25 THE WITNESS: That's Pacific. That's my 6:10PM

1 time. Just to be clear. 6:10PM

2 MR. MAYE: Off the record. Because I want
3 to know how much time I have left.

4 MR. McKAY: I'm showing that you're at 09,
5 you're at six hours and 42 minutes. 6:10PM

6 MR. MAYE: Court Reporter, can we please go
7 off the record.

8 THE REPORTER: Both counsel have to agree to
9 go off the record. To go on the record, only one
10 counsel has to say "On the record." But to go off the 6:10PM
11 record, you have to agree.

12 MR. MAYE: That's fine.

13 THE VIDEOGRAPHER: I'm sorry, are we staying
14 or going off?

15 MR. McKAY: We are staying on the record. 6:10PM

16 THE VIDEOGRAPHER: Okay. Just making it
17 clear. Thank you.

18 BY MR. MAYE:

19 Q Does the captain have authority under
20 the regulations to direct that a passenger be moved 6:16PM
21 when the captain is notified by a flight attendant
22 that the flight attendant observed what she perceived
23 to be sexual misconduct?

24 MR. McKAY: Objection to the form.

25 THE WITNESS: It, again, sir, doesn't really 6:16PM

1 have anything to do with the FARs. The captain has 6:16PM
2 the authority as the PIC to act in accordance with
3 whatever he or she deems appropriate.

4 BY MR. MAYE:

5 Q So the answer is yes, the captain does 6:17PM
6 have the authority?

7 MR. McKAY: Objection to the form.

8 THE WITNESS: Yes.

9 BY MR. MAYE:

10 Q Is the captain required under the FARs 6:17PM
11 to conduct an investigation in flight after a flight
12 attendant has notified the captain that a passenger is
13 the victim of potential sexual misconduct?

14 MR. McKAY: Objection to the form.

15 THE WITNESS: Yeah, there's a lot to that. 6:17PM

16 BY MR. MAYE:

17 Q Let me restate that. Before a captain
18 moves a passenger that the captain understands was the
19 victim of inappropriate touching, does the captain
20 have to conduct any investigation before the captain 6:18PM
21 moves that person, that passenger, away from the
22 alleged perpetrator under the regulations?

23 MR. MAYE: Objection to the form.

24 THE WITNESS: For the I don't know how many
25 times, but the regulations don't specifically cover 6:18PM

1 this area. So if that's the extent of the question. 6:18PM
2 But the other part of that is after the captain has
3 determined -- and we're not covering how the captain
4 has made this determination other than through
5 hearsay, but if your question is just specific to the 6:18PM
6 regulation, we can continue to save more time, and I
7 will reiterate again that the regulations don't
8 specifically address this area.

9 BY MR. MAYE:

10 Q So the captain does not have to conduct 6:19PM
11 an investigation before moving the passenger who was
12 the potential victim of sexual misconduct before the
13 captain decides to move that passenger away from the
14 perpetrator?

15 MR. McKAY: Objection to the form. 6:19PM

16 THE WITNESS: As we've discussed previously
17 sir, the captain may do -- may make whatever decision
18 he or she makes. However, the captain must be
19 prepared to defend that decision and show that he or
20 she utilized best judgment and all available resources 6:20PM
21 before making, in this case, such an egregious
22 decision as to separate a minor child from his parent.

23 BY MR. MAYE:

24 Q Captain Shupe's decision to separate
25 A.D. from his father was not a violation of any FARs; 6:20PM

1 is that correct?

6:20PM

2 A Asked and answered, sir. It's not an
3 FAR situation.

4 Q So the answer is --

5 A It was not a violation.

6:20PM

6 Q -- it was not a violation.

7 I have no further questions.

8

9

EXAMINATION

10 BY MR. McKAY:

6:20PM

11 Q Captain Norton, I'm just going to ask
12 you a couple of questions here, and then hopefully we
13 can all end the day.

14 Did Captain Shupe have sufficient time
15 to conduct the type of investigation that you have
16 indicated was necessary?

6:21PM

17 A In my opinion, he had more than
18 sufficient time to do that, yes.

19 Q Can you expand on why that was?

20 A When I attempted to look at the
21 timeline, from anything other than deposition

6:21PM

22 testimony, I looked at the record of the ACARS

23 transmissions and tried to match up timing in terms

24 of, we have what we call OOII times, out is pushing

25 back from the gate, parking brake release, off is

6:21PM

1 leaving the ground. In is touching -- I'm sorry. On 6:21PM

2 is touching down, and in is setting the parking brake

3 at the destination gate. And it's a flight of

4 four-ish, I have it written somewhere, but it's --

5 Q About four hours and 45 minutes? 6:22PM

6 A Yeah, that's about right. And the

7 initial report by Captain Shupe, and everyone's

8 testimony puts it in the ballpark that the initial

9 report by Ms. Bright was only an hour and change into

10 the flight. 6:22PM

11 Q And would that include having

12 sufficient time to have instructed the crew to have

13 witnesses deplane last so they could give statements

14 to the police?

15 A Absolutely. 6:22PM

16 Q And was that done?

17 A Not to my knowledge.

18 Q With respect to Item 10, and Mr. Maye,

19 since I don't have control, could you show that --

20 okay. Thank you. About ascertaining A.D.'s age, the 6:22PM

21 Frontier gate agent, I don't know if you remember,

22 many, many hours ago you were asked about that and

23 whether there was a standard of care. Did you state

24 the applicable standard up in your report?

25 A I believe I did. It's a minimum of 15 6:23PM

Page 275

1 years of age to occupy the exit seat is the standard. 6:23PM

2 Q And who sets that standard?

3 A That is set by the FAA.

4 Q So that's not something that can be
5 waived by a gate attendant or a flight attendant? 6:23PM

6 A No, sir, it's not.

7 Q Is it necessary for a captain of an
8 airline flight to interact with flight attendants to
9 ascertain the facts of a situation?

10 A I guess I would say it's situational. 6:23PM
11 It depends on the situation and what the information
12 the captain needs.

13 Q Fair enough. Let me ask it this way.
14 Is it necessary for the captain to be the manager
15 during the flight of the flight attendants? 6:24PM

16 A It is.

17 Q Do captains need to manage the actions
18 of flight attendants during a flight if a situation is
19 brought to their attention that involves something as
20 great as accusing a passenger of illegal activity? 6:24PM

21 A Yes.

22 Q And in order to manage them, does the
23 captain need to be aware of the protocols that the
24 flight attendants themselves have to follow?

25 A Yes. 6:24PM

1 Q Did Frontier provide Captain Shupe with 6:24PM
2 any training on the protocols that the flight
3 attendants needed to follow for a claim of suspected
4 human trafficking or a claim of suspected sexual
5 molestation, sexual misconduct, I should say? 6:25PM

6 A They did not.

7 Q When you testified about the report by
8 Flight Attendant Nickel to the other flight attendants
9 that she saw A.D. shaking his head when she offered
10 him a soda, should she and the other flight attendants 6:25PM
11 have questioned the reason for assuming that it looked
12 like evidence of human trafficking?

13 MR. MAYE: Object to form.

14 THE WITNESS: If, in fact, the response led
15 them to that suspicion, then yes. 6:25PM

16 BY MR. MCKAY:

17 Q And what guidance is available for
18 flight attendants to understand how to question
19 assumptions about passengers, especially passengers of
20 minority races? 6:26PM

21 A I am not aware. You'll have to restate
22 that. I'm sorry.

23 Q I'm sorry. I think I asked you a
24 question outside of your particular area. Strike
25 that. 6:26PM

1 Do you think that in that situation 6:26PM
2 where Flight Attendant Nickel was offering a soda to
3 A.D. and it was established that A.D.'s father was
4 asleep, if A.D. had been a victim of trafficking, what
5 would you have expected such a victim to do if the 6:26PM
6 adult was sound asleep?

7 MR. MAYE: Object to form.

8 THE WITNESS: As I understand the question
9 you're asking, what would I reasonably expect a victim
10 of trafficking to do when given the opportunity to 6:27PM
11 alert an adult while the adult was asleep? To alert a
12 safe adult? I would assume that A.D. would capitalize
13 upon the opportunity to somehow signal that he was
14 under duress or needed help.

15 BY MR. McKAY: 6:27PM

16 Q And did he do that?

17 A No, sir.

18 Q Why should Chelsie Bright have engaged
19 the DelVecchias in conversation before reporting to
20 the captain that they made her feel uncomfortable? 6:27PM

21 A Well, because according to her
22 deposition testimony, that the closest we can get to
23 why she may have been uncomfortable was the suspicion
24 that perhaps A.D. was being trafficked or that there
25 was something untoward about their relationship. And 6:28PM

1 she's been provided training and a protocol to help 6:28PM
2 her assuage those concerns if, in fact, she has them.

3 Q And if she didn't follow through with
4 those protocols on which she's been trained, does that
5 lead to any conclusion as to whether or not the 6:28PM
6 suspicion is valid?

7 MR. MAYE: Object to form.

8 THE WITNESS: I can only conclude that not
9 following a prescribed procedure for which you've been
10 given training is either indicative of the fact that 6:28PM
11 you weren't concerned or were somehow just not
12 following your training protocol for whatever reason.

13 BY MR. McKAY:

14 Q Why didn't the flight attendants want
15 to talk to the DelVecchias? 6:29PM

16 MR. MAYE: Object to form.

17 THE WITNESS: I have no idea, sir.

18 BY MR. McKAY:

19 Q Would you as a captain have expected
20 the flight attendants to talk to them? 6:29PM

21 MR. MAYE: Object to form.

22 THE WITNESS: As I previously testified
23 during the day, it would have been one of the first
24 things I would have asked them, the flight attendants,
25 to do, particularly Ms. Bright when she came to the 6:29PM

1 cockpit, while I tried to gather additional 6:29PM

2 information about the DelVecchias from dispatch.

3 BY MR. MCKAY:

4 Q Is talking to passengers who are the
5 subject of concerns by flight attendants a good way to 6:29PM
6 gather important facts?

7 MR. MAYE: Object to form.

8 THE WITNESS: It absolutely is.

9 BY MR. MCKAY:

10 Q You've testified to Captain Shupe and 6:30PM
11 his interaction with Chelsie Bright. I want to ask,
12 if he had inquired about the DelVecchias' familial
13 relationship, was it your testimony that he said that
14 would be a non-issue?

15 A I believe my testimony is that I quoted 6:30PM
16 Captain Shupe in his deposition having said if he had
17 been aware that they were father and son, then the
18 facial touching will have been a non-issue. But I'm
19 referencing my report, sir.

20 Q Okay. And we can look at that in your 6:30PM
21 report.

22 And if he had inquired of Flight
23 Attendant Warren what the status of the passengers was
24 in terms of being awake or asleep at the time that
25 Flight Attendant Warren reported allegedly seeing 6:31PM

1 Peter's hand on A.D.'s crotch, would that have 6:31PM
2 potentially led to a decision that there was nothing
3 to the report?

4 A According to Captain Shupe's
5 deposition, he testified that -- I believe he agreed 6:31PM
6 with you that it would not be possible for misconduct
7 to be occurring if, in fact, the accused was asleep.

8 Q And if it was impossible for misconduct
9 to have been occurring, then is it justified for
10 Captain Shupe to have ordered the two to be separated? 6:32PM

11 MR. MAYE: Object to form.

12 THE WITNESS: No.

13 BY MR. McKAY:

14 Q There was a point at which there was
15 some confusing questioning about the trafficking 6:32PM
16 protocol, and I just wanted to clear up. Are you
17 saying that a flight attendant who claims to be
18 concerned about trafficking does not have to follow
19 the Frontier trafficking protocol?

20 MR. MAYE: Object to form. 6:32PM

21 THE WITNESS: No, sir, that is not what I
22 said. I believe, and hope that I testified, that if
23 the flight attendant is at all concerned, or even has
24 such suspicions, that it is appropriate for the
25 trafficking protocol to be followed. 6:33PM

Page 281

1 BY MR. McKAY:

6:33PM

2 Q When you say "to be followed," is that
3 to be followed piecemeal or in parts but not other
4 parts, or does it have to be followed to the letter?

5 A It should be followed to the letter.

6:33PM

6 It's laid out very clear and it's, frankly, not that
7 complicated or time consuming.

8 Q You answered some questions about not
9 having had bias training at United, quote/unquote, for
10 investigations.

6:33PM

11 Do you remember that?

12 A I do.

13 Q Have you had bias training at United
14 Airlines for other reasons?

15 A Extensively.

6:33PM

16 Q Have those reasons included the
17 Department of Transportation recommendations for
18 anti-bias training?

19 A I believe they have, yes.

20 Q You have testified about a standard of
21 care, and you've used the terms "overarching
22 responsibility" as a pilot in command. Is that the
23 standard of care that is the same -- that would be the
24 same one applied to all airline captains in the
25 airline industry in the United States?

6:34PM

6:34PM



1 A It is. 6:34 PM

2 Q And is it something that is shared,
3 where there are opinions shared amongst fellow
4 captains in a way that they can be reviewed, peer
5 reviewed so to speak, for accuracy?

6 MR. MAYE: Object to form.

7 THE WITNESS: I'm not sure I understand the
8 question. I'm sorry.

9 BY MR. MCKAY:

10 Q These opinions, or these standards that 6:35PM
11 you've applied, are they standards, first of all, that
12 we could ask any airline captain whether they agree
13 with them and have them say that they do?

14 A I would certainly hope so.

15 Q And how is that shared amongst all of 6:35PM
16 you airline captains?

17 A When you say "how is it shared," I'm
18 not really sure what you mean. We're all trained --

19 Q How do you end up using the same
20 standards? Let me ask it that way. 6:35PM

21 A Through our training protocol.

22 Q Okay. And are those training protocols
23 that find their way to a common overarching authority
24 to make sure that they all say the same thing?

25 MR. MAYE: Object to form. 6:35PM

1 THE WITNESS: It's a very broad -- the 6:36PM
2 command authority bestowed upon us as captains is a
3 very broad responsibility. I know I keep referring to
4 it as overarching. I was hoping it was on my wall,
5 the standard, but certainly it's up to each individual 6:36PM
6 airline, how they choose to train their captains.

7 I don't know if I'm answering your
8 question.

9 BY MR. McKAY:

10 Q I didn't mean to interrupt you, but 6:36PM
11 what I was getting at is while there may be
12 variations, do they generally all meet in a set of
13 standards that all airline captains would agree are
14 the same?

15 MR. MAYE: Object to form. 6:36PM

16 THE WITNESS: Without being able to speak
17 for every airline captain, I would certainly hope so.

18 BY MR. McKAY:

19 Q And why would you hope so?

20 MR. MAYE: Object to form. 6:37PM

21 THE WITNESS: Because as Captain Shupe
22 stated in his deposition, ultimately irrespective of
23 anything that's occurring on the airplane, on the
24 ground, in flight, the buck stops with the captain,
25 and we all have to be confident in the adequacy of our 6:37PM

1 training and the immense responsibility that we have 6:37PM
2 to ensure the safety and security of our crew and
3 passengers for every flight that we undertake.

4 BY MR. McKAY:

5 Q Okay. And are the opinions that you 6:37PM
6 have stated in your report and here in your testimony
7 today made to a reasonable degree of certainty within
8 that area of expertise?

9 MR. MAYE: Object to form.

10 THE WITNESS: Absolutely. 6:38PM

11 MR. McKAY: That's all I have. Thank you.

12

13 FURTHER EXAMINATION

14 BY MR. MAYE:

15 Q Captain Norton, the fact that Captain 6:38PM
16 Shupe did not ask Flight Attendant Warren whether the
17 plaintiffs appeared to be sleeping when he observed
18 the hand on the crotch, that was not a violation of
19 any federal regulations, correct?

20 A Correct. 6:38PM

21 Q And the fact that Captain Shupe did not
22 ask about the familial relationship between
23 Mr. DelVecchia and A.D. was not a violation of any
24 federal regulation, correct?

25 A Not specifically, no. 6:38PM

1 MR. MAYE: Thank you very much. I have no 6:39PM
2 further questions.

3 MR. McKAY: Thanks. She will read and sign.

4 THE VIDEOGRAPHER: Mr. McKay, do you need a
5 copy of the video and the transcript? 6:39PM

6 MR. McKAY: Video and transcript only in PDF
7 form, please. No paper copy.

8 THE VIDEOGRAPHER: And the video, what
9 format did you want?

10 MR. McKAY: Can you just do it by a 6:39PM
11 download?

12 THE VIDEOGRAPHER: Yes, I can do that. I'll
13 sign us off.

14 This concludes today's proceedings in
15 the deposition of Captain Vickie Norton. The total 6:39PM
16 number of media used was five. We're off the record.
17 The time is 6:39 p.m.

18 (Deposition concluded at 6:39 p.m.)

19

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4 Assignment No.: 941574

5

6 DECLARATION UNDER PENALTY OF PERJURY

7

8

9 I declare under penalty of perjury that I have
10 read the entire transcript of my deposition taken in the
11 above-captioned matter or the same has been read to me, and
12 the same is true and accurate, except for changes and/or
13 corrections, if any, as indicated by me on the DEPOSITION
14 ERRATA SHEET hereof, with the understanding that I offer
15 these changes as if still under oath.

16

17

18 Executed on this day of _____, 2023,

19 at _____,

20

21 (city) (state)

22

23

24 CAPTAIN VICKIE NORTON

25

1 DEPOSITION ERRATA SHEET

2 Assignment No. 941574

3

4

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8 Page No. _____ Line No. _____ Change to:

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10 _____.

11 Reason for change:

12 _____

13 _____.

14 Page No. _____ Line No. _____ Change to:

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17 Reason for change:

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22 SIGNATURE _____ DATE _____
23 CAPTAIN VICKIE NORTON
24 _____
25 _____

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CALIFORNIA CERTIFIED SHORTHAND REPORTER

3

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5

I, RUBEN GARCIA, a Certified Shorthand Reporter
of the State of California, do hereby certify:

6

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14

That the foregoing reporter videoconference
proceedings were taken before me at the time herein set
forth; that any witness in the foregoing proceedings, prior
to testifying, were placed under oath; that every attempt
was made to ensure a verbatim record of the remote
proceedings which inherently have technical interference
and audio interruptions and issues. Such transcript was
created by me using machine shorthand which was thereafter
transcribed under my direction.

15

16

17

I further certify that I am neither financially
interested in the action nor a relative or employee of any
attorney nor of any of the parties.

18

19

20

21

22

Reading and signing was requested.

IN WITNESS WHEREOF, I have this date subscribed
my name. My certificate to the original may be attached to
certified copies electronically.

23

24

25

Dated this 21st day of March, 2023.

Ruben Garcia

RUBEN GARCIA, CSR NO. 11305

| A | | | |
|------------------------|---------------------|---------------------|---------------------|
| abate | acronym | afternoon | 138:11 |
| 231:4 | 259:12,15 260:13 | 137:9 | airplane |
| ability | act | age | 165:4 283:23 |
| 204:24 268:21 | 140:14 148:13 | 274:20 275:1 | al |
| able | 179:19 271:2 | agent | 134:4,7 286:3,3 |
| 140:13 156:12 167:8 | acted | 274:21 | alarming |
| 202:13 252:12 | 140:8,22 151:12 | ago | 193:24 |
| 260:13 283:16 | action | 274:22 | alert |
| above-captioned | 134:21 149:17 | agree | 157:3 277:11,11 |
| 286:11 | 161:18 172:15 | 158:13 165:8,23 | alerted |
| above-entitled | 173:5,25 174:12 | 176:17 177:24 | 200:4 224:5 |
| 134:21 | 198:21 248:17 | 178:6 184:4 187:18 | allegation |
| absence | 251:12 289:16 | 196:19 202:3 | 164:11 167:21 |
| 209:11 264:24 | actions | 203:14 211:10 | allege |
| Absent | 142:6 154:22,24,25 | 228:4 231:6 232:18 | 185:24 |
| 253:4,25 | 192:18 205:16 | 237:8 242:13 | alleged |
| absolutely | 252:2 275:17 | 255:14 257:15,16 | 181:7 271:22 |
| 209:1 213:11 219:2 | activity | 257:17,21 258:7,14 | allegedly |
| 220:23 274:15 | 275:20 | 260:20 270:8,11 | 167:14 189:11 218:5 |
| 279:8 284:10 | actual | 282:12 283:13 | 219:10 279:25 |
| ACARS | 137:24 138:14 142:3 | agreed | alleges |
| 273:22 | 185:7 196:16 | 170:20 171:10,23 | 219:11 |
| accept | 198:12 | 181:5 182:3 190:12 | alleviate |
| 168:14 | ad | 190:13 280:5 | 230:13 |
| accepted | 243:1 244:17 | ahead | allow |
| 168:6 252:22,25 | addition | 177:25 178:1 192:3 | 163:15 197:1 223:15 |
| access | 239:9 | 223:25 227:15 | allowed |
| 197:17 259:21 260:4 | additional | 242:2 246:22 | 165:6 |
| 260:7,10 | 154:24 234:7 246:12 | air | allows |
| accomplished | 265:4 266:22 279:1 | 147:9 151:8 158:13 | 244:3 246:2 |
| 146:12 | address | 159:18,18 | alluded |
| account | 208:11 241:21 | airborne | 233:2 241:17 |
| 168:11 202:19 | 256:18 272:8 | 200:22 | alludes |
| accounts | addressing | aircraft | 236:13 |
| 169:11 184:16 | 244:10 | 196:15 207:7 232:11 | alter |
| 185:23 | adequacy | 252:4 256:19 263:9 | 201:15 |
| accuracy | 283:25 | 265:10 | alternative |
| 282:5 | adjectives | airline | 194:15 |
| accurate | 142:4 | 275:8 281:24,25 | ambiguity |
| 286:12 | ADLER | 282:12,16 283:6,13 | 264:12 |
| accused | 135:11 | 283:17 | ambiguous |
| 280:7 | adult | Airlines | 140:24 |
| accusing | 150:22 151:2 160:14 | 134:7 143:2,16 | amiss |
| 275:20 | 197:23 235:1 | 144:11 281:14 | 210:11 218:5 |
| | 242:18 243:12,20 | 286:3 | analysis |
| | 277:6,11,11,12 | airline's | 153:14 163:7 |

| | | | |
|---|--|--|--|
| analyze 198:2 | anytime 200:19 | 237:13 | 142:3,5,16 143:7,17 |
| and/or 286:12 | apologize 228:22 | ascertain 151:1 204:25 275:9 | 146:19 147:1,11,13 |
| animal 241:19 | Apparently 204:17 | ascertained 174:25 | 147:14,16,19,23 |
| Anna 213:8 218:22 220:3 220:19 225:14,21 234:9,21 235:22 236:2 | appeared 178:8 180:9,25 284:17 | ascertaining 274:20 | 148:1,7,14,21 149:2 149:10 150:16 152:23 153:8,16 161:15,19,22 162:9 244:5,12,22 |
| answer 140:6,13,17,19,25 141:17 142:10 143:24 145:6 146:4 147:4 148:4 153:3 156:12 162:2,5,12 174:19,19 176:1 183:5 200:24 204:7 213:11,16,19 214:19 215:19 216:8,24 217:6 219:4 220:8 221:2 226:8 227:12,23,24 228:6,13 229:15 232:8 241:7 248:19 256:14 258:12 271:5 273:4 | appears 226:14 | asked 140:11 142:1 151:17 153:2 154:4,19 157:7 166:25 173:22 182:4 199:23 216:23 217:8,19 220:14 223:23 224:1,6 227:1 229:6,7 240:17,18 241:20 256:11 257:7 260:17 261:21 263:18 273:2 274:22 276:23 278:24 | assaulted 137:20 143:5 242:18 243:6,12 248:11 |
| answered 142:2 145:5 151:2 152:13 161:25 162:6 165:22 212:5 228:8,10 235:15 243:24 257:7 261:21 273:2 281:8 | appendix 169:10 183:17 | asking 150:8,25 152:14 164:25 174:9,13 175:1 177:2 179:8 180:14 185:2,9,22 200:12 201:2 204:14 208:15,16 211:24 212:4 218:2 219:24 221:7 223:16 229:14 231:19 232:6 233:5 242:3 243:18 260:8 277:9 | assess 266:20 |
| answering 204:10 217:4,5,19 235:2 283:7 | apply 150:6,10 194:11,14 195:1 241:14 242:19 243:4,21 247:4,21,25 248:12 257:3 263:5,24 | asks 213:8 225:13 | assessing 255:16 |
| answers 262:16 | appreciate 204:5 229:7 | asleep 177:10 178:8,18 179:18 181:7 210:13 277:4,6,11 279:24 280:7 | assigned 261:9,13 |
| anti-bias 281:18 | approach 153:15 | assault 138:6,12,15,21 139:3 139:6,13,16,24 140:3 141:23 142:2 | Assignment 286:4 287:2 |
| anybody 214:25 | appropriate 164:20 166:18 168:25 170:12 192:3,5,9 193:2 204:12 224:25 263:10 271:3 280:24 | | assuage 218:19 221:23 231:8 264:13 278:2 |
| anyone's 182:25 | area 183:21,25 185:5 188:4 197:16,19 272:1,8 276:24 284:8 | | assume 142:23 178:2 277:12 |
| | arrival 207:8 | | assumes 155:22 174:4 233:10 241:3 |
| | arrive 170:9 | | assuming 157:5 207:16 276:11 |
| | articulate | | assumption 264:23 |
| | | | assumptions 264:6 276:19 |
| | | | attached 289:20 |
| | | | attempt 289:9 |
| | | | attempted 273:20 |
| | | | attempting 217:6 |
| | | | attendant 138:2,5,10,11 139:3 139:5,14,16,18,25 140:1,22,22,23 141:6,10,21,22 |

| | | | |
|--|---|---|--|
| 142:21,25 143:3,10 144:19 145:2,10 146:11 147:8,9 148:10 149:7,9,16 150:14 152:22 153:6,12,20 154:18 155:14 159:23 161:14,15 162:10 162:11,11 169:20 169:22 170:5 178:17 180:8 182:12,16 183:1,7,9 184:2 185:10 186:2 186:24 187:19 188:9,17 189:2,3,4 189:15,24,24 192:24 193:1,2 194:9 195:14 197:22 200:5 201:22 202:5,23,25 203:8,16 205:19 206:24,25 207:3,4 207:23 208:16 211:13 212:9 214:10 219:11 221:8,9 229:15 231:22 238:19 240:19 241:24 242:5,17,20 243:5 243:10,11,13,16,19 244:4,11,13,20 248:2 254:22 260:21,24 267:5 270:21,22 271:12 275:5,5 276:8 277:2 279:23,25 280:17 280:23 284:16 | 185:24 189:10,21 190:10,17 191:2,23 192:10 194:9,10,13 194:19,23 195:9 196:17 199:8 208:4 208:7,18 209:2,19 210:9 214:13 215:25 217:20 218:2 226:16 227:2 230:5,18,25 231:8 231:14 232:1,15 233:6,25 240:21 242:10 251:8 252:6 258:8,15 261:1,16 261:20 262:23 264:11 265:3 266:16 267:7,14,22 268:3,12 269:1 275:8,15,18,24 276:3,8,10,18 278:14,20,24 279:5 | awake 279:24 aware 138:3,17,19,25 139:1 139:10,22 140:3 141:18 144:6,13 146:16,24 152:13 165:1,18 166:8 175:5,9 176:7,9,15 180:24,25 181:5 189:2,15 196:14 200:13,14 214:7 215:24 220:10,17 226:25 228:14 229:22 275:23 276:21 279:17 awareness 229:22 262:8,19 A.D 154:6 155:3,7,20 163:13,19 164:9,17 166:1 167:9,19 176:9,16 177:10,23 178:18,22 179:18 182:15,21,24 183:2 183:20,25 184:4 185:4,5,12,18 187:3 187:5,8,18 188:11 188:18 189:6,17 190:9,18 191:3,4 192:13 197:7 199:25 202:4 203:15 208:19 211:15 212:11 216:18,24 217:21 218:4,5,13 219:6 221:11 222:5,15 226:7 227:3 229:8 233:17 235:10 237:5,22 238:6,20 239:1 240:16,21,22 241:13 248:10 257:19 263:20,23 267:2 272:25 274:20 276:9 277:3 277:3,4,12,24 280:1 | 284:23 <hr/> B <hr/> B 136:12 baby 200:22 back 137:10 139:7 142:22 149:24 150:20 172:22 175:24 176:3,13,16 178:12 180:4 181:8 182:7 182:13 183:3,4,10 184:7 185:20 186:13 197:5 199:6 205:3 206:11 212:16 213:5 216:20 225:10 226:12 229:23 238:13 246:16,17 249:8 261:24 264:14 267:19 273:25 background 169:25 256:13 ballpark 274:8 base 263:3 based 144:18 145:9 151:7 152:8 163:17 169:7 187:19 195:2 199:22,25 200:12 200:13 202:23 203:1,2,4,14 233:15 234:3,20,24,25 235:20,24 236:8,10 236:19 237:19 240:24 247:4,21 248:5,7 256:23 265:5,7,8,12 basic 207:1 basically |
|--|---|---|--|

| | | | |
|---------------------|-------------------------|---------------------|----------------------|
| 191:24 | 223:10 272:20 | 273:25 274:2 | 283:1,3 |
| basis | bestowed | break | brought |
| 145:22 155:7 188:18 | 283:2 | 139:4 150:21 179:21 | 207:25 224:18,19 |
| 206:10 218:9 | better | 228:20 243:2 | 237:7 238:23 |
| bearing | 206:10 214:8 252:15 | Brian | 275:19 |
| 207:13 | beverage | 135:12 158:17 162:4 | buck |
| beginning | 210:8 | 179:20 181:12 | 190:8 191:8,16 |
| 137:11 180:3 193:13 | bias | 225:16 239:16 | 283:24 |
| 201:23 202:11 | 249:18,21 250:6,8 | 245:2 260:15 266:3 | bulk |
| 203:9 223:1 225:9 | 281:9,13 | brief | 265:17 266:14 |
| 241:25 242:1 | biased | 210:10 | bunch |
| begins | 250:11 | Bright | 235:3 |
| 190:6 | big | 154:18 155:14 156:4 | <hr/> |
| behalf | 167:3 214:15 258:25 | 157:7 164:23 165:9 | C |
| 150:1 244:6 | bit | 166:8,17 169:2,5,7 | C |
| behavior | 183:12 205:6 223:14 | 170:16 184:8 | 135:1 183:17 |
| 218:5 | 228:24 | 188:24 190:10 | cabin |
| believe | black | 196:5 198:13 201:3 | 182:18 187:1 205:2 |
| 142:18,19 148:18 | 224:22 | 201:22 202:6,11 | 267:9 268:13 269:2 |
| 154:21 155:4,17 | Blue | 203:8,16 204:19 | calculations |
| 157:18 160:24 | 136:15 157:12,15,24 | 205:11 208:20 | 181:13 |
| 161:5 165:21 | 160:11,17,22 | 209:11 210:20 | California |
| 168:10 169:6 | bmaye@amm-law... | 211:5,18 212:12 | 134:23 135:6 289:2,5 |
| 171:14 176:11 | 135:14 | 213:8,16 216:17,23 | call |
| 178:16 181:3,4,8,9 | board | 217:21 218:6,10,12 | 197:25 198:9 238:11 |
| 183:8,23 184:18 | 200:5 241:7 256:19 | 219:4,17,24 221:8 | 273:24 |
| 185:7 187:10 | Bond | 221:10 222:3,14 | capable |
| 197:16 199:11 | 190:11 191:24 213:8 | 223:19 224:3,19 | 196:24 |
| 202:3 203:23 205:7 | 218:22 219:11,18 | 226:23 227:1 | capitalize |
| 207:20,22 209:12 | 219:20 220:3,19 | 228:14 231:2 233:2 | 277:12 |
| 233:15,20,24 | 225:14,21 234:9,11 | 233:15 234:21 | captain |
| 236:12 237:20,24 | 234:21 235:22 | 235:9,22,25 237:4,9 | 134:12 136:3,17 |
| 237:24 238:1 239:3 | 236:2 238:12 | 237:21 238:19 | 137:17,18 138:20 |
| 240:7,22,24 241:12 | Boom | 239:10 240:14 | 139:2,12,24 140:1,2 |
| 243:24 245:10 | 215:5 | 274:9 277:18 | 140:4 141:5,20,21 |
| 255:25 256:22,25 | borne | 278:25 279:11 | 142:14 143:2 |
| 274:25 279:15 | 164:12 167:22 | Bright's | 145:25 146:2,13,14 |
| 280:5,22 281:19 | bothered | 156:24 165:16,24 | 146:18,25 147:7 |
| believed | 248:16 | 167:4 168:18,24 | 149:1 150:13 |
| 155:1 161:16 166:9 | bottom | 170:11,19 171:2 | 152:21 154:4,16,18 |
| 202:24 238:21 | 201:20 | 193:18 234:4,8 | 155:13,24 156:18 |
| 244:20 | box | bring | 156:22 157:6 |
| benign | 230:12 | 236:16 241:22 246:6 | 163:18 164:16,16 |
| 210:10 | boy's | bringing | 164:18 165:13,17 |
| best | 188:3 | 221:16 | 166:5,25 170:20,23 |
| 148:4 190:13 204:24 | brake | broad | 171:7 172:4,16 |

| | | | |
|---|--|--|--|
| 171:7 172:4,16 173:7 174:20,23 175:6,16 177:9,22 178:8,21 179:5,10 179:15,19 180:7,9 180:13,25 181:18 183:1,7,9 184:13 185:3,11,15,17,22 186:3,15 187:7,20 188:10,17 189:4,21 189:25 190:15,16 191:1,8,17 192:10 192:20 193:15 194:3,8,12,16,25 195:17 197:24 198:1,2,16,18,21 199:1,11 200:17 201:3,8,21 202:3,10 202:22 203:15 204:19 205:10,19 205:20,22 206:3,5,8 207:5,5,6,13,25 209:20 237:8,19 238:2,4,19,23 239:7 240:15,18,20,22 246:11 249:10 251:9 253:18 254:1 254:20,22,24 255:17 257:3,17 260:20,24 261:3,7 261:11,19 262:5,11 262:17 263:7,12,15 264:3,7,10 265:2,9 265:20,22 266:7,19 267:6,13 268:2,11 268:25 270:19,21 271:1,5,10,12,17,18 271:19,20 272:2,3 272:10,13,17,18,24 273:11,14 274:7 275:7,12,14,23 276:1 277:20 278:19 279:10,16 280:4,10 282:12 283:17,21,24 284:15,15,21 | 285:15 286:24 288:23 captains 275:17 281:24 282:4 282:16 283:2,6,13 captain's 206:18 Caption 286:3 care 137:18 138:4,18 139:23 140:3 141:5 141:19 142:13 143:6 144:25 146:1 146:17,24 150:17 151:18,22,24,25 152:5,8,9,20 176:10 200:13 201:7 251:17,20 274:23 281:21,23 careful 142:4 carrier 147:9 carriers 158:13 159:18,19 carrier's 151:8 CAS 259:18 case 144:2,14,15 154:4 166:21 172:7,12,14 173:1,3,12,13,21,23 173:23 174:11 175:7 176:14 180:11,19 204:14 204:24,25 206:8 207:18,20 225:1 233:14 234:1 240:8 240:11 241:1 245:9 247:6 248:10,10 256:1 257:14 259:7 272:21 286:3 cases 161:11 | CAST 259:9,21 260:4,5,6 260:11 category 267:20 cause 161:17 236:15 caused 172:14 173:4 causing 210:12 CBT 196:13 certain 178:7 208:9 254:21 257:4 certainly 154:22 167:5 171:6 196:24 207:16 230:18 231:25 233:21 262:20 267:10,21 282:14 283:5,17 certainty 284:7 certificate 289:20 certified 289:2,4,21 certify 289:5,15 cetera 137:25 235:3 change 153:14 170:19 172:14,15 173:4,6 174:1,14,18 274:9 287:8,11,14,17,20 287:23 288:1,4,7,10 288:13,16 changed 173:24 174:12 175:7 198:21 199:1 changes 252:11,18 286:12,15 characterization | 168:18 234:9 characterize 185:10 188:16 characterized 237:16 Chelsie 154:18 156:4,23 164:22 165:9,24 166:8,17 168:23 170:11,16 188:1,24 193:18 194:3 201:3 202:5 211:5 212:12 213:8,16 216:16,21 218:10,12 219:4,24 221:10 222:3,14 224:19 226:23 227:1 228:14 233:15 234:4,21 235:8,22,25 237:4,9 237:20 238:19 240:14 277:18 279:11 Chicago 135:13 child 150:22 151:3 160:14 166:13,19 170:14 171:24 196:9 197:24 198:3 209:14 224:22 235:2 242:18,21 243:12,13,14,20,20 258:9,16 267:2 272:22 child's 196:10 choose 232:8 283:6 chooses 260:21 chronological 193:10,25 chronology 156:9 241:5 circle 239:24 |
|---|--|--|--|

| | | | |
|---|---|---|---|
| circumstances 191:23 192:12 194:11 230:18 240:8,10 260:21 | collectively 228:4 combating 157:19 come 157:10 182:7 195:1 204:23 211:19 240:18 246:16,17 267:22 comes 140:1 197:22 comfort 164:14 167:23 262:8 262:21 comforting 165:5 168:21 coming 153:6 command 151:11 152:15,16 251:17 252:4 261:7 261:13 265:9 268:8 281:22 283:2 committed 145:3 146:3 150:16 237:10,22 239:1 243:19 267:1 common 282:23 communicate 228:3 264:11 communication 238:10 264:4 company 215:17 218:18 221:22 223:3 250:18 262:9,23 complete 163:24 179:16 200:25 completely 149:21 164:11 167:20 219:12,21 219:21 239:11 complex 168:12 | compliance 262:9 complicated 281:7 complied 207:21 comply 232:8 251:8 compound 155:10 235:12 computer-based 159:11 concept 188:5 215:1 217:22 218:7 221:16 226:13,16 conceptual 147:17 concern 229:21 230:14 237:2 239:5,7 253:5,20 254:3,15 267:9,15 267:18 268:4,13 269:1 concerned 153:9 154:17 213:15 221:1 237:17 238:22 278:11 280:18,23 concerning 200:6 215:13 218:16 concerns 197:4 204:20 221:24 231:9,15 264:13 278:2 279:5 conclude 278:8 concluded 285:18 concludes 285:14 conclusion 207:12 278:5 conclusions 261:2 concrete | 193:18 conditions 254:15,23 255:6,16 conduct 182:12 205:2 258:4 271:11,20 272:10 273:15 conducted 250:21 conducting 249:19,22,23 250:4,7 250:13 conducts 250:22 confident 283:25 conflict 144:12 169:16 conflicting 169:10 170:4 175:24 183:12,13 184:15 184:16,19,23 confusing 280:15 consensual 164:13 167:23 199:6 consensus 190:17 191:2 consent 148:6 consider 171:7 176:19 177:9 177:19 178:3 181:6 consideration 233:22 255:12 considered 141:22 175:6,10 176:24 177:8 198:24 199:3,4 consistent 265:24 266:9 constitute 148:21 constituted 149:10 consult |
|---|---|---|---|

| | | | |
|----------------------|---------------------|----------------------|------------------------|
| 191:22 257:18 | convinced | create | 267:4,11,24 |
| consuming | 152:3 153:8 | 195:8 252:11 | data-gather |
| 281:7 | coordinate | created | 238:11 |
| contact | 262:18 | 256:17 289:13 | date |
| 170:22 171:25 201:9 | coordination | credible | 288:22 289:19 |
| contacted | 262:7 | 166:20 | Dated |
| 195:17 198:18 | copies | crew | 289:22 |
| 199:12,17,23 200:2 | 289:21 | 158:14 159:19 | day |
| contacting | copy | 169:11 261:9,13,15 | 165:16 241:17 251:7 |
| 198:15 | 163:23,24 285:5,7 | 262:7,18 274:12 | 264:10 266:14 |
| content | correct | 284:2 | 268:9 273:13 |
| 159:7 230:19 | 138:24 166:22 | criteria | 278:23 286:18 |
| context | 191:13 194:13 | 236:15 | 289:22 |
| 152:14 157:18 | 273:1 284:19,20,24 | critical | deal |
| 176:20 196:7 205:7 | correcting | 164:8 165:15 167:17 | 167:3 |
| 256:8 259:3,11 | 252:14 | 177:21 178:4 191:9 | dealing |
| contextual | corrections | 191:20 193:9 195:1 | 152:14 |
| 187:24 | 286:13 | 197:20 | dealt |
| continue | counsel | cross | 148:1 |
| 145:16,18 205:2 | 137:13 190:3 249:1 | 181:23 182:1,6 | decide |
| 220:14 231:5 | 270:8,10 | 246:24 | 149:17 |
| 239:25 245:6,6 | counter | crosses | decided |
| 272:6 | 266:20 | 142:5 | 204:21 |
| continued | couple | crotch | decides |
| 193:12 | 216:8 273:12 | 155:2 156:5 178:9,23 | 251:11 272:13 |
| continues | course | 180:10 181:2 | deciding |
| 222:25 224:5 | 172:14 173:5,24 | 182:24 183:20,25 | 167:3 |
| contradict | 174:12 175:7 | 185:5,18 187:5,8 | decision |
| 176:2 219:12 | 192:14 198:21 | 188:3,4 240:21 | 153:22 167:4 176:16 |
| contradiction | 251:11 | 280:1 284:18 | 190:9 191:9,20 |
| 169:21 | court | CSR | 192:12,19 194:24 |
| contradicts | 134:1 137:12 139:7 | 289:25 | 206:9,12,13,18,19 |
| 169:3 | 172:21 246:7 266:2 | cut | 207:14 254:2,14 |
| contribute | 269:22 270:6 | 264:19 | 257:19 267:12,14 |
| 267:12 | cover | cutting | 272:17,19,22,24 |
| control | 234:8 235:4 239:17 | 204:3 | 280:2 |
| 229:1 252:4 274:19 | 239:23 248:1 | C-A-S-T | decisions |
| conversation | 271:25 | 259:16 260:11 | 266:17 267:7 |
| 162:14 197:6 207:2 | covered | | decision-maker |
| 218:1,4 230:15 | 193:21 243:1 244:17 | | 165:15 |
| 235:25 264:14 | 247:18 | D | decision-making |
| 277:19 | covering | 135:5 136:1 286:1 | 175:8 267:23 |
| convey | 272:3 | darn | DECLARATION |
| 180:23 | covers | 206:9 | 286:6 |
| conviction | 252:2 265:17,17 | data | declare |
| 244:21 | 268:7 | 171:7 195:11 264:15 | 286:9 |

| | | | |
|--|--|--|---|
| declared 202:15 257:11,15 263:18 | 168:2,7,11 185:18 187:8 188:3 240:20 | described 153:19 189:22 198:14 207:18 209:15 220:5 | dictates 146:1 150:17 151:6 151:10 160:12 201:8 251:21 |
| deemed 201:5 209:14 | demonstrate 193:20 | describing 198:12 239:10 | difference 147:18,25 156:17 161:24 166:15 171:10,11,18 177:17 244:6 |
| deems 252:3 271:3 | departed 219:16 | description 136:14 179:16 183:6 184:19 185:2 188:19 | different 140:20,20 142:5 145:6 147:14 149:21 153:3 163:15 164:11 165:2,25 167:21 170:15 182:5 185:4 196:9 219:21 228:5 259:19 |
| defend 272:19 | Department 263:9 281:17 | descriptions 185:21 | differentiate 141:25 147:12 153:1 |
| Defendant 134:21 135:10 | depend 148:9 162:22,25 | designated 166:16 262:6 | differently 182:5 |
| Defendants 134:8 | dependent 191:7 267:18 | despite 168:18 190:7 | differing 185:23 |
| Define 257:25 | depends 267:17 275:11 | destination 274:3 | difficult 169:13 |
| degree 148:11 284:7 | deplane 274:13 | detail 177:21 | direct 155:7 169:21 175:2 179:16 195:6 199:7 204:11 224:11 234:9 261:15 270:20 |
| delineated 145:21 236:4 256:5 | depo 170:20 171:23 181:8 | details 193:17 262:17 | directed 159:13 191:4,11 228:5 |
| DelVecchia 134:4 154:7 164:9,17 166:1 167:9,19 176:12 178:18,22 182:15,21,24 183:2 184:3 187:3 188:11 189:6,16 190:18 191:3,4 192:13 199:24 202:4 208:18 211:14 212:11 216:17 218:13 219:5 221:10 222:4,15 227:3 233:16 235:10 237:5,22 238:5,20 239:1 240:16,23 257:20 284:23 286:3 | deposition 134:11,20 136:16 137:1 157:2 158:1 165:14 168:3 169:2 169:14,20,24 171:9 172:5,9 175:16 176:2 178:13,14 181:17,20 183:4,11 184:8 185:8,20 186:5 188:6,8,23 204:8 208:20 211:18 212:13,17 219:13,17,20 222:25 224:16 227:20 233:20 236:1 239:11 245:4 245:6,7,13,24 246:3 246:11 247:5,22 269:8 273:21 277:22 279:16 280:5 283:22 285:15,18 286:10 286:13 287:1 | determination 194:12,13 203:2,18 204:22 205:13,16 205:21 206:14,17 209:2 244:4 272:4 | direction 204:12 228:5 264:12 289:14 |
| DelVecchias 182:17 186:25 189:12 193:7 199:18 210:7,11 219:15 262:20,21 264:14 265:4 277:19 278:15 279:2,12 | depositions 170:1,3 175:25 176:4 176:13 | determined 138:13 149:9 150:15 154:12 201:21 202:10,18,20,23 203:1,4,8 204:18 208:4 211:6 248:10 257:10 272:3 | directive 160:6 162:24 |
| DelVecchia's | describe 183:15,15 185:25 | determines 207:10 | directly 172:4 182:19 187:2 234:25 |
| | | determining 258:9 263:24 | disagree |
| | | develop 147:22 | |
| | | developed 193:12 | |
| | | developing 249:11,15 | |
| | | dictate 149:1 | |

| | | | |
|---------------------|---------------------|-----------------------|----------------------|
| 203:23 | dive | 156:7 252:14 258:19 | errata |
| disagreeing | 176:13 | 278:10 | 252:14 286:14 287:1 |
| 204:16 | doing | elect | error |
| discern | 164:24 201:17 | 260:20 | 267:1 |
| 169:13 170:7 | 205:23 | electronically | errors |
| discomfort | Douglas | 289:21 | 266:22 |
| 208:9 | 250:20 | embedded | escalate |
| discuss | download | 173:13 | 193:13 |
| 143:15 261:24 | 285:11 | employee | escalating |
| discussed | drawl | 289:16 | 241:6 |
| 152:4 193:3 194:19 | 223:9 | employees | especially |
| 210:10 229:12 | drill | 216:4 | 226:4 267:24 276:19 |
| 236:3 241:10 250:9 | 170:9 | employer | ESQ |
| 251:6,15 262:16 | due | 226:14 230:1 | 135:5,12 |
| 264:9 266:13 | 241:4 | employment | Essentially |
| 272:16 | duress | 144:9 | 262:15 264:17 |
| discussing | 277:14 | enforcement | establish |
| 236:14 | duties | 207:7,7,8,10,12 | 160:13 |
| discussion | 156:19 251:16 | 258:7,14 | established |
| 206:7 217:20 223:2 | | engage | 181:9 263:8 277:3 |
| 223:18,18 234:16 | E | 191:18 | establishing |
| 235:5 238:12 | E | engaged | 180:12 |
| dispatch | 135:1,1 136:1,12 | 235:10 277:18 | esteem |
| 195:13,15,17 197:11 | 286:1,1,1 | engages | 250:10 |
| 197:13,25,25 198:9 | earlier | 207:1 | et |
| 198:15,19 199:12 | 159:11 163:25 164:3 | engineer | 134:4,7 137:25 235:3 |
| 199:17,23 200:2,6 | 170:10 189:12 | 250:19 | 286:3,3 |
| 200:23 201:9 | 194:19 200:20 | enhance | event |
| 264:16 279:2 | 210:10 227:22 | 262:19 | 169:22 171:2 198:12 |
| dispatcher | 244:18 252:1 | enlighten | 234:10,13 263:16 |
| 193:6 200:20 266:15 | 263:18 264:15 | 168:15 | 263:17,19 266:21 |
| disposal | easier | ensure | events |
| 191:19 192:22 | 152:11 263:6 | 141:11 143:11 146:9 | 232:10 |
| 198:16 | easily | 147:8 151:11,25 | everyone's |
| dispositive | 262:18 | 232:11 251:7 252:6 | 274:7 |
| 155:19 | educating | 262:21,22 284:2 | evidence |
| disruptive | 226:15 | 289:10 | 155:22 174:4 233:10 |
| 254:23 | effect | ensuring | 241:3 276:12 |
| distance | 174:14 206:18 | 251:10 | evident |
| 210:5 | effective | entered | 196:3 |
| distinction | 138:11 | 198:13 | EX |
| 232:22 | effort | entire | 136:14 |
| DISTRICT | 238:10 | 223:18 241:5,17 | exact |
| 134:1,2 | egregious | 286:10 | 183:8 187:25 208:22 |
| disturbance | 267:1 272:21 | entirety | exactly |
| 210:12 | either | 222:13 242:12 | 151:1 168:3 178:13 |

| | | | |
|--|---|---|--|
| 179:8 183:23 185:22 212:19 EXAMINATION 137:15 273:9 284:13 examined 137:7 excerpt 173:17 Excuse 183:18 215:6 225:17 Executed 286:18 exercise 152:16 Exhibit 136:15,16 157:23 158:1,18 181:17,20 exist 195:9,9,10 244:7 256:9,18 existed 201:24 203:11 208:1 exists 196:14 197:5 exit 196:1 210:7 219:15 234:10 275:1 expand 273:19 expect 277:9 expected 263:7 264:4,10,21 265:20,23 266:8,20 277:5 278:19 experienced 219:19 experiencing 254:24 expert 144:2,7 150:7 160:19 160:22 169:25 170:2,7 193:22 250:11 expertise 169:17,19,23,24 | 197:16,19 284:8 explain 203:25 204:18 242:6 254:5 260:14 explaining 193:14 expression 164:13 167:23 extended 240:15 extensively 175:16 281:15 extent 180:7,18 268:20 272:1 external 255:3 extraordinary 202:25 eye 209:4,5 214:8 226:3 229:9 e-mail 215:23 e-mails 216:11 <hr/> F <hr/> FAA 252:21,25 275:3 face 201:4 202:7 206:11 210:22 213:17,25 221:3 237:5 238:20 239:10 240:16 facial 154:17 155:1,25 156:4,10,14,24 163:11 164:23 165:24 167:2,9,14 168:17 172:10 193:19,20,21 198:14 209:16 211:21 212:2 221:8 237:13 279:18 facing | 254:24 fact 145:18 153:11 159:23 163:13 164:10,12 165:18 167:20,22 169:15 171:6,9 172:11,25 173:12,16 176:11 178:17 179:17 188:23 189:9 191:10 195:23 196:4 198:23 204:24 208:23 210:13,21 233:21 236:10 238:8 240:14 241:18 248:8 276:14 278:2 278:10 280:7 284:15,21 factor 254:16,24 facts 155:22 163:10,17 174:4 180:11,19,24 194:25 195:5 197:7 233:10 237:20 240:24 241:3 275:9 279:6 fact-find 238:11 fact-finding 206:10 267:3 failing 266:15,22 failure 266:14 fair 143:20 144:19,21 147:15 154:20 178:23 179:10 188:12 195:19 228:16 230:8,9 232:2,4 234:5,22 235:22 236:23,25 242:8,13,14 248:12 275:13 | fairly 178:4 fall 148:6 familial 279:12 284:22 familiar 157:12,15 160:20 201:8 258:20,25 259:9 family 158:7,15 160:24,25 161:6,9 191:20 264:23 far 252:1,3 264:16 269:4 273:3 FARs 271:1,10 272:25 far-reaching 233:1 fashion 267:8 father 156:19 163:13,20 164:10,18 165:1,4 165:10 167:1,20 168:20 171:24 172:13 173:3,25 174:11 175:9,19 176:8,11,15 196:4 197:8 210:22 263:20,23 267:3 272:25 277:3 279:17 father's 176:10 father-son 172:17 173:8 174:2 174:15 fears 218:19 feather 214:15 federal 138:3,19,22 141:16 |
|--|---|---|--|

| | | | |
|---|--|--|--|
| 146:17,21 151:7 152:9,12 201:6,12 251:20 261:18 268:1,6,24 284:19 284:24 feel 177:20 220:8,16 225:14,20,25 226:9 232:21 247:9 277:20 fellow 214:13 282:3 felt 209:16,16 219:18 220:3,6,8,16 224:8 226:6 229:8 237:6 female 150:15,22 151:19 153:7,9,11 fifth 190:2,5 figure 190:24 financially 289:15 find 166:19 167:16 187:9 195:18,20 197:6 199:5,12 208:21,21 224:10 240:2 282:23 fine 139:22 179:23 213:24 224:20 239:20 269:21 270:12 finger 231:2 fingertips 200:9,18 finish 228:2 269:8,14 finished 246:11 269:10,13 firmly 244:20 | first 155:25 156:22 160:13 162:25 167:13 191:6 192:15,23 193:13 193:18 194:1 195:15,21 196:2,5 199:9 200:10 215:16 216:21 221:17 256:5 259:23 278:23 282:11 fishing 260:6 fit 197:3 230:17 253:16 five 239:9 259:1 285:16 flight 137:22 138:1,1,5,10 138:11 139:3,5,14 139:16,18,25 140:1 140:7,21,22,23 141:6,7,10,21,22 142:21,25 143:3,10 143:11 144:19 145:1,10,23 146:9 146:11 147:8,8 148:10 149:7,8,16 149:25 150:13 151:12,25 152:17 152:22 153:5,12,19 154:18 155:14,15 156:2,6,8 157:9 158:6 159:13,23 160:6,13 161:13,15 162:9,10,11 164:15 164:18 169:3,14,20 169:21 170:5 174:22,23 175:18 175:20 176:1,6 178:17 180:7 182:12,16 183:1,7,8 184:2,12,23 185:10 185:24 186:2,24 187:19 188:9,16 | 189:2,3,4,4,5,7,10 189:15,16,21,24,24 190:10,17 191:2,23 192:10,24 193:1,2 194:7,9,9,10,12,19 194:23 195:9,14 196:17 197:4,22 199:8 200:4,5,21,25 201:21 202:5,23,25 203:8,16 205:18 206:24,25 207:3,4 207:23 208:4,7,16 208:17 209:2,19 210:5,9 211:13 212:9 213:10 214:10,13,21 215:25 217:20 218:2 219:1,11,15 220:22 221:8,9 226:15 227:2 229:14 230:4,18,24 231:8,14,22 232:1 232:15 233:5,25 238:18 240:19,21 241:7,24 242:5,10 242:17,18,20 243:4 243:5,9,11,13,15,19 244:4,11,13,20 248:2 251:7 252:6 254:14,15,21,21,23 255:15,16,18 256:20,23 257:1 258:8,15 260:19,21 260:23,25 261:5,8,9 261:10,16,19 262:6 262:22 264:11 265:3 266:16,21 267:5,7,14,22 268:3 268:12,25 270:21 270:22 271:11,11 274:3,10 275:5,8,8 275:15,15,18,18,24 276:2,8,8,10,18 277:2 278:14,20,24 279:5,22,25 280:17 280:23 283:24 | 284:3,16 flyer 160:7 165:3 focus 170:23 follow 137:22,25 146:10 151:13 157:7 172:20 174:24 194:5 218:18 230:10 252:6 261:4 261:11,16,20 262:11,23 263:12 264:7 266:24 275:24 276:3 278:3 280:18 followed 143:12 152:1 163:1 191:13 193:5 205:15 207:17,24 232:10 233:3 234:19 266:11 280:25 281:2,3,4,5 following 152:17 189:11 202:14 217:11 224:3,4 229:9,24 278:9,12 follows 137:7 139:9 147:8 159:22 172:23 206:25 follow-up 187:16 FOM 260:22 forefront 236:16 foregoing 289:6,8 Forensics 250:7,13,22 forging 175:11 form 138:8 140:18 141:8 |
|---|--|--|--|

| | | | |
|---------------------|---------------------|---------------------|---------------------|
| 141:24 142:17 | 280:11,20 282:6,25 | 149:4 | give |
| 143:8,21 145:4,11 | 283:15,20 284:9 | further | 140:14 150:5 167:25 |
| 145:15,22 146:6,20 | 285:7 | 161:18 164:25 | 177:2,13 205:13 |
| 147:2 148:15 149:3 | formal | 201:25 202:5 | 229:1 231:7 236:15 |
| 149:13,19 150:19 | 232:9 250:8,16,22 | 203:12,16 205:3 | 264:11 274:13 |
| 151:9,23 152:10,24 | format | 273:7 284:13 285:2 | given |
| 153:17 154:2,8 | 285:9 | 289:15 | 145:7 146:4 150:4 |
| 155:8,21 158:8 | forth | F.A | 151:14 154:10 |
| 160:3,15 161:1,7,20 | 232:18 251:13 289:8 | 204:19 205:11 | 167:7 171:7 277:10 |
| 162:20 165:11 | forty-five | F.O | 278:10 |
| 166:2,23 167:11 | 210:6 | 263:16 | gives |
| 168:1,9 171:13,21 | forward | | 166:18 |
| 172:18 174:3,17 | 194:2 | G | glean |
| 175:12,21 176:21 | found | G | 161:24 195:20 |
| 177:3 178:10,24 | 248:18 | 286:1,1 | 239:14 |
| 179:11 184:21 | foundation | gain | gleaned |
| 187:21 188:13,20 | 231:8 | 157:8 264:15 | 196:5 197:12 |
| 189:8,18 190:19 | four | Garcia | global |
| 191:5 196:11,22 | 145:6 156:2 169:13 | 134:22 137:12 289:4 | 251:16 |
| 198:4 199:14 | 181:14 190:10 | 289:25 | go |
| 200:15 201:11 | 191:22 192:10 | garner | 138:13 140:21 |
| 202:8 203:21 206:1 | 274:5 | 162:14 | 142:21 143:12 |
| 206:20 207:15 | fourth | gate | 152:5 156:14 |
| 209:8 210:1,19,25 | 182:15 186:24 | 273:25 274:3,21 | 162:24 167:3 |
| 211:9,16 216:19 | four-ish | 275:5 | 169:12 174:21 |
| 219:7 221:12 222:7 | 274:4 | gather | 175:24 176:3 |
| 222:16,20 227:4 | Francisco | 154:23 266:16 | 177:25 178:1,12 |
| 228:17 230:21 | 135:6 | 267:25 279:1,6 | 181:8 183:3,4,10 |
| 231:16 232:3,19 | frank | gathered | 184:7 185:19 186:6 |
| 233:9,18 234:6,23 | 169:5 | 195:3 | 186:8 188:5 192:3 |
| 235:23 236:9,21,24 | frankly | gathering | 192:23 197:5 199:6 |
| 237:11,23 238:7 | 169:1 192:24 281:6 | 203:15 205:23 | 200:7 208:12 |
| 239:2 240:9 241:2 | frequent | 206:11 267:4 | 209:18 212:16,23 |
| 242:22 243:22 | 182:12 205:2 | general | 218:17 219:25 |
| 244:15 247:7,23 | frightened | 147:14 161:8 173:22 | 223:5,5,25 225:2,18 |
| 248:13 251:23 | 165:3 | 260:23 262:2 | 242:2 246:19,22 |
| 253:8,21 254:4,11 | Frontier | generally | 248:23 249:2 |
| 254:18 255:1,19 | 134:7 159:24 216:3 | 230:20 283:12 | 256:12 264:13 |
| 257:8,24 258:21 | 244:9 260:19,22 | generic | 265:3 269:5,7,12,15 |
| 259:2,10 260:1 | 261:7 274:21 276:1 | 196:13 | 269:16,18 270:6,9,9 |
| 262:14 263:14,25 | 280:19 286:3 | genitals | 270:10 |
| 265:6,15 268:5,14 | Frontier's | 148:5 197:23 | goes |
| 269:3 270:24 271:7 | 145:20 160:6 192:25 | gesture | 242:6 |
| 271:14,23 272:15 | 194:7 199:9 229:9 | 168:21 | going |
| 276:13 277:7 278:7 | 229:24 248:8 | getting | 153:11 155:9 158:9 |
| 278:16,21 279:7 | fully | 246:25 283:11 | 158:19 159:3,4 |

| | | | |
|--|---|--|--|
| 163:9 170:17 181:12 186:9 187:16 188:8 193:16 195:13 197:1 202:13 209:11 213:1 214:21 220:14 224:9 227:23 228:19 229:4 239:18,23,23,25 240:11 243:9 245:5 245:6,22,23 246:6 249:4 256:7 260:14 270:14 273:11 good 137:9 179:20 192:15 230:13 231:7,13,25 232:1 246:8 264:4 266:17 279:5 GOSEWISCH 135:11 gotten 198:20 granted 202:19 great 182:7 202:24 275:20 grew 208:9 grope 153:7 groped 151:20 groping 150:15 ground 239:17 274:1 283:24 grounds 154:6,12 155:6 guess 139:21 183:22 215:1 215:4 217:22,23 240:2 259:24 275:10 guidance 140:25 151:14 | 194:21,23 209:19 230:13,19 231:25 232:1 244:13 252:7 253:13,17 254:8 261:4,12 262:12 263:13 264:8 266:12,25 276:17 guide 266:15 guided 211:7 guideline 253:25 guidelines 253:4 254:1 257:2 guy 153:10 245:17 <hr/> H <hr/> H 136:12 hair 238:13 half 247:1 half-handed 195:8 hand 155:2 156:5 163:10 178:9,19,23 180:10 181:1 182:24 183:20,25 185:5,18 186:1 187:4,8 188:3 240:20 265:19 280:1 284:18 happen 142:19 153:13 193:11 264:23 happened 141:2 145:23 148:23 149:1 156:9 158:18 168:12 169:22 170:9 174:7 193:17 195:22 198:12 210:8 241:6 248:9 251:10 | happening 176:20 207:4 262:20 happens 226:3 happy 169:11 harassing 235:11,17 239:18 245:13,14 246:2 hat 214:15,23 head 239:6 276:9 headed 207:2 heard 157:17,20 161:11 hearsay 184:12 195:6 267:17 272:5 held 171:5 help 200:23 209:19 221:23 230:13 250:25 254:2 260:13 277:14 278:1 hereof 286:14 Hey 153:6 198:19 214:14 high 250:10 highest 265:25 266:10 highlighted 186:16,23 hold 158:20 179:22 220:13 250:10 Homeland 263:9 honesty 159:9,16 hope | 195:4 280:22 282:14 283:17,19 hopefully 273:12 hoping 283:4 host 200:8 hour 210:6,6 274:9 hours 181:14 247:1 270:5 274:5,22 human 141:6,11,13 157:3,4 157:19 158:6,14 159:12,20 160:2,12 191:12 194:17 196:8,14 197:3 199:9 206:24 207:3 207:5,9,10,21 208:4 208:19 209:2,4,6,6 209:14,24,25 210:16,17 211:3,4 211:14,24 212:4,10 212:15 219:5 224:3 224:15,22 228:15 230:1,5,6,7,17 231:10,23 232:14 232:15 233:6,7,8 234:1,17 235:6,19 236:3,6 238:14 249:15 251:3,22 252:2,18 253:1 258:17 276:4,12 hypothetical 149:21 150:4,6,21 hypotheticals 150:8 <hr/> I <hr/> idea 180:22 278:17 identification 158:2 181:21 identified |
|--|---|--|--|

| | | | |
|----------------------|---------------------|---------------------|-----------------------|
| 196:2 | incident | 264:1 | inquired |
| identify | 241:23 242:4 254:25 | infinitum | 279:12,22 |
| 194:10 195:16 210:3 | include | 243:1 244:18 | inquiring |
| 230:11 251:19 | 274:11 | information | 155:17 |
| 266:20 | included | 136:22 140:14 | inquiry |
| II | 281:16 | 150:24 154:11,23 | 162:18 |
| 134:10 | includes | 155:19 156:1 157:8 | inside |
| illegal | 250:11 263:10 | 160:16 162:15,23 | 239:6 |
| 275:20 | including | 174:19,21,25 | insignificance |
| Illinois | 264:13 | 176:18,19 177:20 | 174:16 |
| 135:13 | incomplete | 178:5,21 179:5,6,7 | insofar |
| imagine | 179:18 | 179:10 180:8,12,21 | 230:9 253:22 |
| 148:20 157:1 266:2 | incorrect | 180:23 188:1 | instruct |
| IMC | 206:12,13 | 191:19 193:6 | 215:17 261:19 |
| 255:8 | incumbent | 194:17 195:3,11,21 | instructed |
| immediately | 194:3 | 197:12 198:20 | 159:19 174:22,23 |
| 159:20 196:3 199:19 | indicate | 199:17,24 200:19 | 182:12 205:1 |
| 202:4 | 180:20 219:4 | 200:23 201:10 | 274:12 |
| immense | indicated | 202:1 203:13,16 | instructing |
| 284:1 | 213:9 218:24 220:20 | 205:18,23 252:15 | 264:13 |
| impact | 273:16 286:13 | 258:12,18 264:17 | instructional |
| 165:9 167:1 | indicating | 264:24 265:4 | 223:4 |
| implement | 180:24 190:16,20 | 266:16 275:11 | instructions |
| 230:7 232:17 233:8 | 228:14 | 279:2 | 205:14 |
| 233:25 | indication | inherently | instructs |
| implemented | 235:2 | 289:11 | 223:3 |
| 234:19 | indicative | initial | intended |
| important | 197:21 236:3 278:10 | 162:23 163:11 | 248:1 |
| 163:6,12 176:19,24 | individual | 164:22 193:8 197:4 | intent |
| 177:14 255:15 | 166:19 209:13 283:5 | 274:7,8 | 205:8 226:14 |
| 279:6 | individuals | initially | interact |
| impossible | 163:3 195:25 199:7 | 173:19 195:25 | 275:8 |
| 280:8 | 200:11 | 204:23 229:20 | interaction |
| inaccurate | individual's | initiate | 186:25 210:10 236:2 |
| 264:6 | 148:2 | 197:6 | 279:11 |
| inappropriate | industry | initiated | interactions |
| 149:9 155:16 156:3 | 137:17,21 138:4,17 | 229:25 | 182:17 |
| 156:25 164:12,19 | 139:1,11,23 140:4 | Initiating | intercom |
| 164:24 166:10 | 141:4,20 142:14,19 | 230:14 | 190:12 |
| 167:10,12,21 171:8 | 143:5 144:24 | Initiative | interest |
| 194:18 201:23 | 145:25 151:8,18 | 136:15 157:13,16,24 | 144:12 |
| 202:6,12 203:10,17 | 152:9,21 159:25 | 160:12,18,22 | interested |
| 203:19 204:23 | 160:5 200:14 201:7 | innocuous | 289:16 |
| 205:20,22 209:17 | 251:2,8,13 263:2 | 239:12 | interference |
| 211:5,21 212:3 | 281:25 | inquire | 289:11 |
| 263:21 271:19 | Inexplicably | 161:18 | interject |

| | | | |
|-----------------------|---------------------------|----------------------|----------------------|
| 204:11 | involved | 250:18 | 200:10 208:1 210:2 |
| interpret | 161:17 201:10 | joint | 217:10 224:17,17 |
| 168:17 | 206:15 207:9 | 200:21 | 226:2 229:22 231:4 |
| interpretation | 208:19 252:17 | judge | 235:17 237:12 |
| 148:18,22,25 156:24 | involves | 167:8 227:21,22 | 239:8,13 243:15,17 |
| 193:23 204:16 | 144:11 275:19 | 239:21 | 252:21,25 255:15 |
| 222:9 234:4,20,25 | involving | judging | 259:4,25 270:3 |
| 237:25 | 241:23 242:4 | 167:14 169:17 | 271:24 274:21 |
| interpreting | in-flight | judgment | 283:3,7 |
| 205:8 | 160:7 | 272:20 | knowing |
| interrupt | irrelevant | jump | 141:1 165:10 168:20 |
| 170:18 283:10 | 255:20 | 227:24 239:12 | knowledge |
| interruptions | irrespective | justified | 158:16 164:9 165:7 |
| 289:12 | 191:10 283:22 | 280:9 | 167:18 274:17 |
| intervene | ISC | | known |
| 244:23 | 262:6,13 | K | 155:20 163:19 |
| interviews | issue | keep | 164:16 165:17,25 |
| 207:8 | 170:23 199:3 239:24 | 150:8 206:2 209:4,5 | 166:25 170:13,21 |
| intimation | 254:21 266:20 | 214:8 226:3 229:3,9 | 173:25 175:8 |
| 224:2 | issues | 266:2 283:3 | 198:24 199:2 |
| introduce | 256:18 289:12 | kid's | |
| 266:22 | Item | 226:4 | L |
| introduced | 274:18 | kind | labeling |
| 218:6 | items | 138:23 147:10 | 229:8 |
| investigated | 236:2 | 162:22 169:25 | Lacks |
| 163:10 | i.e | 191:7 193:11 205:6 | 259:2 |
| investigation | 202:12 205:1 255:5 | 214:5 | lady |
| 163:1 202:5 204:21 | J | kit | 214:14,22 |
| 250:20 271:11,20 | January | 230:25 | laid |
| 272:11 273:15 | 144:8 | KJD-NJK | 281:6 |
| investigations | Jesse | 134:6 | lake |
| 249:19,22,23,25 | 135:18 137:12 | know | 260:7 |
| 250:4,7,13 281:10 | Jesus | 140:17 144:1,3 148:9 | language |
| invited | 225:17 | 150:11 154:12 | 184:19 |
| 246:13 | job | 158:5 159:14,18,21 | large |
| invoke | 249:24,24 268:21 | 159:24,25 160:9,10 | 229:1 |
| 210:16 230:7 232:17 | John | 160:11 162:21 | law |
| 233:7 234:1 | 135:5 181:15 204:5 | 163:23 164:4 166:3 | 135:4 207:6,7,8,9,12 |
| invoked | 215:6 217:13 | 166:4,12,16 167:13 | 258:7,14 |
| 209:24 211:4 231:24 | 223:11 224:24 | 171:3 175:3,18 | lead |
| 234:18 235:20 | 227:16,25 239:19 | 176:23 177:8,12,15 | 221:17 278:5 |
| 236:7,17 | 245:5 | 178:19 179:1,8,13 | leadership |
| invoking | johndmckayatty@... | 179:14 180:14 | 265:24 266:9 |
| 254:9 | 135:7 | 181:11 184:8 | learned |
| involve | joined | 185:13 187:16 | 154:17 155:4,24 |
| 158:6,15 | | 193:15,21 197:15 | 156:18 162:17,21 |

| | | | |
|--|--|---|---|
| 162:25 163:18 174:11 176:18 201:3 learning 155:17 172:13,16 173:2,8 leave 237:25 262:13 leaving 188:6 208:22 274:1 led 276:14 280:2 leeway 166:18 left 228:20 247:1 248:25 270:3 length 182:18 187:1 lens 165:2 letter 230:10 231:25 281:4 281:5 let's 139:20 186:4,8 194:6 195:15 208:1 212:18,20,20,23,23 215:14 223:5 226:12 246:9 248:23 269:15 level 148:3 201:24 202:15 203:11 205:15,21 209:18 253:6,13,17 254:1,9 255:25 256:5 257:2,11,14 258:5 263:16,19,24 levels 205:6 231:13 232:7,9 253:16 254:10 256:6,8,9,17 257:23 263:11 liberty 143:22,25 lifted | 183:24 185:7 188:22 light 136:15 157:12,15,24 160:11,17 163:14 164:11 165:7 167:21 171:6 Lightning 160:22 limited 144:10 line 170:6 174:21 181:9 213:7,12 216:22 218:21 220:1 222:10 234:12 287:8,14,20 288:1,7 288:13 listed 143:10 160:6 189:10 242:9 listened 204:19 lists 169:10 little 182:4,5 214:8 219:25 223:6,14 228:23 live 193:20 logical 174:20 look 183:16 186:4 187:24 214:3,14 215:3,8,18 217:23 218:7,17 221:5,21 223:3 260:23 273:20 279:20 looked 165:2 273:22 276:11 looking 140:24 181:22 182:1 188:1 215:2,3 217:22 lookout 157:4 196:15 | Lord-Jones 150:8 lot 161:21 213:21 271:15 loving 164:13 167:23 lump 147:16 lumped 267:20 lumping 155:24 lunch 243:1 lure 260:6 <hr/> M <hr/> machine 289:13 majority 264:9 making 191:20 192:12 194:23 198:14 206:12 212:3 254:2 254:14 267:12,14 270:16 272:21 male 149:8 150:14,21 153:7 man 151:3 224:23 manage 275:17,22 management 249:10,14 manager 275:14 manner 201:4 207:17 237:5 238:21 250:21 manual 138:1,2,6,10,11 143:11 144:19 | 145:10 146:11 147:9 151:8 193:2 194:8,10 252:11,15 252:16,17 257:18 manuals 194:21 March 134:15 137:1 261:8 289:22 marked 157:23 158:1 181:17 181:20 marks 137:10 179:24 180:3 225:5,9 match 196:10,20 273:23 material 161:24 223:4 materials 156:1 175:15 matter 157:18 163:11 165:16 170:6 172:10 207:22 286:11 matters 166:6 Maye 135:12 136:6,8 137:16 138:16 139:7,19 141:3,15 142:8,12 143:1,14 143:19,23 144:22 145:8,12,24 146:7 146:23 147:6 148:24 149:6,14,23 150:3,12 151:5,16 152:7,19 153:4,24 154:3,14 155:11,12 156:16 157:22 158:4,12,20,21 159:6 160:8,19,23 161:4,10,12 162:1,7 162:16 163:5 164:1 164:4,6 165:20 |
|--|--|---|---|

| | | | |
|--|--|---|--|
| 166:7 167:6,15 168:5,22 171:16 172:2,21 173:14 174:8 175:4,17 176:5 177:1,6,11 178:15 179:3,22 180:6 181:15,24 182:2,7,9 184:1,9 185:1 186:6,8,14,18 186:20,21 188:7,15 189:1,13 190:1,4,23 191:21 192:8 196:18 197:10 198:7 199:21 201:1 201:14,18 202:21 203:22 204:5,8,13 206:4,23 207:19 209:22 210:14,23 211:1,11,23 212:6,8 212:23 213:6,20,23 215:6,7 216:15 217:1,10,13,14,24 219:23 222:2,11,18 222:23 223:10,15 223:20,22 224:7,9 224:13,17,20,24 225:2,12,17,19 227:9,13,16,19,25 228:3,8,10,12 229:2 229:17 230:3 231:11,21 232:13 233:4,13,23 234:14 235:7,13,18 236:5 236:18,22 237:1,15 238:3,17 239:19,25 240:4,5,13 241:11 242:16,23 244:8,17 245:5,8,14,16,19,22 246:1,4,6,9,15,19 246:23 247:2,12,17 247:19 248:4,20 249:3,9 252:9 253:11,24 254:7,13 254:19 255:4,7,10 255:13,22 256:12 256:21 257:13 | 258:2,24 259:6,13 259:16,20 260:3,9 260:16,18 262:1 263:1,22 264:2,20 265:1,11,21 266:4,6 268:10,16 269:5,7 269:10,12,15,18,21 270:2,6,12,18 271:4 271:9,16,23 272:9 272:23 274:18 276:13 277:7 278:7 278:16,21 279:7 280:11,20 282:6,25 283:15,20 284:9,14 285:1 ma'am 143:24 158:23 204:14 208:15 217:2,15 219:24 220:13,13 222:24 224:7 228:13 235:19 242:3 243:18 245:9 247:3 247:20 256:10 260:10 McDonnell 250:20 McKay 135:5 136:7 138:8 140:18 141:8,24 142:11,17 143:8,18 143:21 144:20 145:4,11,15 146:6 146:20 147:2 148:15 149:3,13,19 150:5,19 151:9,23 152:10,24 153:17 154:1,8 155:8,21 158:8,17 160:3,15 160:19 161:1,7,20 162:4,20 163:23 165:11 166:2,23,25 167:11 168:1,9 171:13,21 172:9,18 173:10 174:3,17 175:12,21 176:21 | 177:3 178:10,24 179:11,20 181:12 181:22,25 182:3 183:18 184:6,21 186:4,7,17,19 187:21 188:13,20 189:8,18 190:3,19 191:5 192:6 196:11 196:22 198:4 199:14 200:15 201:11 202:8 203:21 204:3,7 206:1,20 207:15 209:8 210:1,19,25 211:9,16 212:5,7,22 212:25 213:7,13,18 213:21 215:5,15 216:14,19,22 217:5 217:8,12,17 219:7 219:25 221:12,17 222:7,16,20 223:7 223:12,19,21,25 224:6,12,14,18,21 225:1,4,13,16 227:4 227:11,18,20 228:1 228:7,9,17,25 229:6 230:21 231:16 232:3,19 233:9,18 234:6,23 235:11,16 235:23 236:9,21,24 237:11,23 238:7 239:2,16,22 240:2,9 241:2 242:15,22 243:22 244:15 245:2,12,15,18,20 245:25 246:2,5,8,10 246:13,17,21,24 247:7,11,15,23 248:13 251:23 253:8,21 254:4,11 254:18 255:1,19 256:11,14 257:7,24 258:21 259:2,10 260:1,5,14,17 261:21 262:14 263:14,25 264:19 | 265:6,15 266:1 268:5,14 269:3,6,8 269:11,14,16,20 270:4,15,24 271:7 271:14 272:15 273:10 276:16 277:15 278:13,18 279:3,9 280:13 281:1 282:9 283:9 283:18 284:4,11 285:3,4,6,10 MEA 250:6,12,21 mean 138:11 140:25 142:23 144:3 147:14 149:20 154:10 159:22 165:5 171:15 174:6 184:23 185:14 196:24 198:24 199:1 200:6 209:1 212:14 214:1 215:20 216:2 221:4 223:3 228:21 232:25 249:24,25 250:17 255:2,20 256:6 260:23 282:18 283:10 meaning 139:17 167:12 means 190:25 204:18 254:6 260:6 268:22 meant 158:19 media 137:11 179:25 180:4 225:5,10 285:16 meet 283:12 meets 207:7 member 160:24,25 161:6 169:11 |
|--|--|---|--|

| | | | |
|--|--|--|--|
| members 158:7,14,15 161:9 261:9,14,15 | 212:1 237:9,21 238:25 240:7,25 241:8,9,13,24 242:5 242:8,11 243:19 244:5 247:4 248:2,3 249:12 252:19,23 255:18 256:24 265:14 270:23 271:13 272:12 276:5 280:6,8 | 270:20 moves 271:18,21 moving 219:19 272:11 Mullins 263:16 multiple 152:13 153:2 169:4 169:10 170:4 183:11 184:15 261:22 MURPHY 135:11 myriad 165:5 191:18 192:21 200:8 240:10 251:18 | 144:14 200:19,24 205:1 228:1 231:24 246:24 275:17,23 285:4 needed 149:17,17 205:13 276:3 277:14 needs 257:11 275:12 neither 209:15 289:15 neutral 250:10 NEVADA 134:2 never 175:5,10 211:3,3 214:4 229:25 241:13 248:11 257:14 263:17 |
| methodically 145:21 mic 227:23 mimic 223:10 mind 157:2,6 168:24 170:12 208:24,25 209:10 221:24 229:7,14,18,23 mine 167:5 minimize 264:5 minimum 274:25 minor 209:14 235:2 267:2 272:22 minority 276:20 minutes 159:1,2 181:14 247:1 270:5 274:5 mischaracterizes 241:15 misconduct 137:24 142:5 144:18 145:1,3 146:2,19 147:1,11,16,20,23 148:3,7,13 149:10 150:1 156:21,23 161:5,9,23 162:9 206:16 209:13 210:24 211:6,7 | missed 144:23 missing 163:22 193:9 195:4 misspeak 171:19 misspoke 146:13 misunderstandings 264:5 model 210:12 module 159:12,16 molestation 189:23 191:13,14,15 241:18 276:5 molester 181:7 molesting 181:6 182:21 183:2 184:4 185:12 187:3 187:18 188:11,18 189:6,16 moment 148:20 198:15 226:1 morning 162:6 Motion 260:2 move 163:20 176:16 228:11 246:13,15 272:13 moved 176:9 203:15 210:7 | N N 135:1 136:1 286:1,1 name 196:9 218:4 289:20 names 196:10,20 natural 218:17 221:18 nature 154:11 163:14 168:7 241:6 Navarro 135:18 137:12 navigating 231:15 near 156:5 necessarily 196:21 231:23,24 necessary 152:6 153:21 155:3 260:16 273:16 275:7,14 neck 238:14 need | new 171:6 239:16,23 246:21,22 247:10 247:16,16 newsletters 215:21 216:11 Nickel 190:12 191:24 276:8 277:2 non 170:22 nonresponsive 227:17 non-consensual 171:8 199:6 non-issue 172:1 199:4 279:14 279:18 non-subject 265:16 non-truths 196:25 Norton 134:12,20 136:3 137:5 180:7 186:15 246:11 273:11 |

| | | | |
|--|---|---|--|
| 284:15 285:15 286:24 288:23 note 171:23 246:10 269:22 notice 193:13 noticed 134:20 notified 162:10 176:10 238:19 240:19 270:21 271:12 notifies 140:2 207:6 254:22 notify 144:4 number 137:11 138:23 154:22 179:25 180:4 225:6,10 248:21 261:3,5,6 262:5 263:7,13 264:3,8 265:22 266:7,19,25 285:16 numerous 161:25 | 152:10,24 153:17 154:2,8 155:8,21 158:8 160:3,15 161:1,7,20 162:20 165:11 166:2,23 167:11 168:1,9 171:13,21 172:18 173:10 174:3,17 175:12,21 176:21 177:3 178:10,24 179:11 184:6,21 187:21 188:13,20 189:8,18 190:19 191:5 196:11,22 198:4 199:14 200:15 201:11 202:8 203:21 204:6 206:1,20 207:15 209:8 210:1,19,25 211:9,16 216:19 219:7 221:12 222:7 222:16,20 227:4 228:17 230:21 231:16 232:3,4,19 233:9,18 234:6,23 235:23 236:9,21,24 237:11,23 238:7 239:2 240:9 241:2 242:15,22 243:22 244:15 247:7,23 248:13 251:23 253:8,21 254:4,11 254:18 255:1,19 257:7,8,24 258:21 259:2,10 260:1,2 261:21 262:14 263:14,25 265:6,15 268:5,14 269:3 270:24 271:7,14,23 272:15 objectionable 170:21 171:25 248:18 objections 246:20 obligated | 233:25 obligation 225:14,20 232:17 obligations 198:22 observation 162:12 182:14,20 185:11 187:2 195:6 243:10 268:3 observations 142:20 179:5,16 192:11 216:23 267:5,6,11,14,22 268:12,25 observed 139:6 141:22 142:15 149:7 150:14,23 152:23 155:16 161:14 163:16,18 177:22 178:9,18,19 178:21 180:10 181:1 184:20 185:3 185:25 186:3 192:1 194:18 197:23 201:4 205:11,19 211:5 213:9 218:24 220:20 237:4 238:20 240:15,20 242:20 243:12 270:22 284:17 observes 242:17 243:14,19 244:11 observing 156:7 221:8 243:16 243:17 obtain 205:18 obtained 162:23 obviously 206:6 209:10 occupants 232:12 252:5 occupy 275:1 | occur 161:6,9 occurring 141:7 148:10 209:3 212:1 280:7,9 283:23 odd 163:22 offer 177:7 191:25 286:14 offered 276:9 offering 277:2 oh 158:20 182:2,11 186:18 223:16 225:17 okay 146:15 149:12 155:11 162:7 165:21 167:16 170:24 177:6 182:2 182:11 186:4,6 187:13 194:3 195:24 198:18 206:13 211:12 213:13 217:25 220:2,24 222:12 224:17,20,24 226:12 227:25 229:3,17 234:15 239:19 240:4 241:12 245:2,5,12 246:4,6,15,23 249:4 255:23 256:15 259:24,25 266:5 268:23 269:5,11,21 270:16 274:20 279:20 282:22 284:5 omission 178:2 omissions 164:8 167:18 omit |
| <hr/> | | | |
| O | | | |
| <hr/> | | | |
| O 286:1,1 oath 190:8 286:15 289:9 Object 276:13 277:7 278:7 278:16,21 279:7 280:11,20 282:6,25 283:15,20 284:9 objection 138:8 140:18 141:8 141:24 142:11,17 143:8,18,21 144:20 145:4,11,15 146:6 146:20 147:2 148:15 149:3,13,19 150:19 151:9,23 | | | |

| | | | |
|---------------------|----------------------|----------------------|---------------------------|
| 179:17 | 144:15,17 161:2 | 216:21 220:1 | part |
| omitted | 175:11 234:3 236:6 | 221:15 222:10,19 | 159:15,22 169:9 |
| 177:21 178:4 | 259:7 261:2 282:3 | 225:13,20 226:20 | 182:3 200:16 |
| once | 282:10 284:5 | 242:2 261:2 287:8 | 227:12 241:7 243:9 |
| 142:6 149:12 152:25 | opportunities | 287:14,20 288:1,7 | 250:9 252:7 272:2 |
| 166:5 175:23 | 264:5 | 288:13 | participated |
| 189:19 193:12,19 | opportunity | pages | 250:19 |
| 200:22 241:4,23 | 267:25 277:10,13 | 222:22 223:17 | particular |
| 242:4 244:1,18,24 | opposite | 226:22 228:22 | 147:9 150:9 159:15 |
| ones | 175:2 | paints | 276:24 |
| 161:25 194:20 | ops | 179:18 | particularly |
| one-stop | 257:18 260:19 | paper | 278:25 |
| 200:7 | order | 285:7 | parties |
| ongoing | 157:8 263:19 275:22 | paradigm | 289:17 |
| 250:18 | ordered | 253:6,17 258:5 | parts |
| OOH | 280:10 | paradigms | 281:3,4 |
| 273:24 | ordering | 254:9 | passed |
| open | 267:2 | paragraph | 227:22 |
| 237:25 | original | 164:7 168:15 183:14 | passenger |
| opened | 289:20 | 184:14 186:16,22 | 137:19 138:7 139:17 |
| 168:19 | outcropping | 190:2,5,6 192:16 | 139:21,25 142:15 |
| operations | 221:19 | 201:20 | 142:20,24 143:4 |
| 138:1 194:7 | outlined | Pardon | 145:3 146:3 148:5,6 |
| operators | 137:25 | 181:24 | 148:9 149:8,15 |
| 263:10 | outset | Parens | 150:14,15 151:19 |
| opine | 201:25 203:11 | 183:19 | 151:20 153:7,7,9 |
| 175:1 230:12 267:24 | outside | parent | 153:12 162:10 |
| opining | 144:9 197:19 276:24 | 166:13,19 170:14 | 205:24 244:11,12 |
| 195:16 | overall | 198:3 272:22 | 244:24 254:21,23 |
| opinion | 152:16 267:11,23 | parental | 254:25 257:22 |
| 145:22 166:24 167:2 | overarching | 164:14 167:23 | 258:1,3,4 262:8 |
| 167:25 171:4 | 262:2 263:4 265:5,7 | parental-like | 267:15 268:4,13 |
| 172:15 173:6 174:1 | 268:8 281:21 | 201:5 | 269:1 270:20 |
| 174:15 177:2,4,7,13 | 282:23 283:4 | parentheses | 271:12,18,21 |
| 177:20 191:17 | | 182:16,18,20,23 | 272:11,13 275:20 |
| 196:23 199:22,25 | P | parenthesis | passengers |
| 200:1 201:2,16,16 | P | 184:15 187:4 | 161:16 162:18 |
| 202:2 218:9,11 | 135:1,1 286:1,1 | parent-child | 171:23 196:20 |
| 222:14 232:25 | Pacific | 166:10,17 168:25 | 198:1 199:18,24 |
| 234:17 235:19 | 269:25 | 170:12 | 200:6 206:15 207:1 |
| 236:19 238:24 | page | parent-like | 207:8 210:12 |
| 242:24,25 247:3,20 | 136:5,14 163:22,25 | 237:6,17 238:21 | 276:19,19 279:4,23 |
| 248:5,7 258:11,18 | 164:2,7 181:19 | PARK | 284:3 |
| 263:3 265:2 267:2 | 182:10 186:16,22 | 135:4 | passenger's |
| 273:17 | 190:3,5 201:19 | parking | 140:2 |
| opinions | 212:22 213:7 | 273:25 274:2 | passenger-carrying |

| | | | |
|---------------------|---------------------|----------------------|---------------------|
| 265:10 | 237:19 | 196:7,13 231:15 | 210:16,16 211:7,13 |
| pause | perspective | 251:3,4,9 252:13 | 221:25 235:6 237:8 |
| 194:1 236:15 | 148:13 163:15 | 253:7,14 255:24 | 237:20 238:16 |
| paying | pertaining | 258:9,16 | 239:7 241:21 |
| 220:11 | 265:13 | pilot's | 267:24 280:14 |
| PDF | Peter | 252:22 253:1 | points |
| 285:6 | 134:4 163:13 164:9 | pink | 184:15 264:15 |
| peer | 182:23 184:3 | 214:15,23 | police |
| 282:4 | 185:17 187:3 | place | 274:14 |
| penalty | 188:10 189:16 | 178:22 195:7 208:14 | policies |
| 286:6,9 | 216:17,24 217:21 | 209:13 218:17 | 141:13 143:9 145:19 |
| people | 218:3,5 219:5 | 224:2 244:2,22 | 145:20 146:10 |
| 193:16 196:24 | 221:10 222:4,15 | placed | 147:22 158:10 |
| 213:10 214:3 | 227:3 229:8 233:16 | 289:9 | 195:7 208:10 |
| 218:25 220:20 | 235:9 238:5 240:20 | PLAINTIFF | 229:10 261:17 |
| 221:5 231:6 | 286:3 | 135:3 | 262:9,23 |
| perceived | Peter's | plaintiffs | policy |
| 161:14 164:19,24 | 185:5 280:1 | 134:5 154:5,19 155:5 | 143:16 148:16 |
| 270:22 | physical | 156:18 172:17 | 192:25 194:5 |
| perception | 138:12,14 147:13 | 173:9,25 175:9,19 | 199:10 208:13 |
| 142:21 151:1 165:17 | 148:1 | 176:8 178:8 180:9 | 209:24 211:4,8 |
| 165:24 166:4 | PIC | 180:25 195:18 | 229:24 230:7,17 |
| 170:15,19 171:2 | 150:13 164:8 167:18 | 284:17 | 231:24 232:15,18 |
| perceptions | 252:3,8 268:8 271:2 | planning | 233:7,8 234:1,18 |
| 165:6 | pick | 200:21 | 235:20 236:7,17 |
| perfectly | 219:8 232:7 | play | 240:7,25 241:8,14 |
| 230:17 253:16 | picture | 159:1,3 233:1 267:23 | 241:18,22,23 242:4 |
| period | 179:18 | played | 242:6,19 243:3,3,21 |
| 244:25 | piece | 158:19 249:10,14 | 244:1,2,3,7,10,13 |
| perjury | 155:19,25 177:19 | plays | 245:10 247:4,20,25 |
| 286:6,9 | 178:4 193:9,10 | 158:3 159:5 | 248:1,8,9,12 249:11 |
| permissible | 197:20 267:11 | please | 249:15 250:9 |
| 192:9 268:1 | piecemeal | 162:4 192:7 204:4 | portion |
| permission | 281:3 | 220:14 223:14,21 | 158:25 |
| 144:9 | pieces | 223:21 229:4 249:3 | portions |
| permitted | 195:5 | 256:14 258:1 266:1 | 254:1,6 |
| 205:18 | pilot | 269:9,15 270:6 | posed |
| perpetrator | 144:24 145:17 | 285:7 | 155:2 |
| 205:25 271:22 | 151:11 152:15 | point | position |
| 272:14 | 170:6 205:17,17 | 156:25 157:9 162:19 | 226:7 252:10,12,13 |
| person | 206:3 207:24 | 171:7 175:19 | possess |
| 168:11 214:7,9,9 | 237:19 251:17,21 | 176:15,18 179:20 | 158:16 |
| 221:17,19 271:21 | 252:2 253:17,18 | 191:8,16 192:16 | possession |
| personal | 254:8 261:7,12 | 194:2,2 197:7 | 194:16,20 |
| 148:2 | 268:24 281:22 | 198:22 202:15 | possibility |
| personally | pilots | 205:20 209:17 | 168:19 |

| | | | |
|--|---|---|---|
| possible 211:2 235:5 238:24 280:6 | 186:25 216:24 221:7,8 236:12 289:8 | 137:22 140:9 141:12 143:10 147:15 150:2,9,10 151:13 152:2,18 153:20 157:1,6 159:23 162:13,24 174:24 189:10 191:11 193:4 194:5 195:14 197:5 202:14,14 207:1,17,21 208:11 210:17 221:20 230:1,8,24 233:2 235:6 236:13 242:6 250:9 278:1,12 280:16,19,25 282:21 | 230:12,25 231:2 242:11 |
| possibly 237:21 | probably 148:19 191:6 206:7 227:1 269:10 | | puts 274:8 |
| post 256:18 | probing 150:25 | | Putting 264:18 |
| potential 155:2 165:9 198:3 200:5 231:15 237:9 238:25 253:5,19 254:3 271:13 272:12 | problem 149:25 150:7 156:9 206:6 | | P&R 198:1,9 |
| potentiality 232:23 | procedure 148:17 199:10 207:24 224:5 232:10 242:9 278:9 | | P&Rs 197:17 198:1 |
| potentially 209:3 258:16 280:2 | procedures 137:23,25 141:13 143:10 145:19,20 146:10 147:22 151:13 152:1,18 153:20 158:11 163:2 195:7 218:19 221:20 261:17,20 262:10,24 | protocols 150:6 191:13 194:11 194:14 195:7 230:19 232:17 252:7 261:20 275:23 276:2 278:4 282:22 | P.D 177:10,22 179:17 183:20,24 187:4,17 190:9 197:8 |
| power 264:22 | | | p.m 134:16,16 137:10 179:25 180:4 186:10,12 213:2,4 225:6,10 249:5,7 285:17,18 |
| prepared 272:19 | | | |
| prescribed 278:9 | | | Q |
| present 190:10 | proceed 137:13 146:14 153:18,22 | provide 144:7 179:9,15 180:8 180:20 197:25 216:23 253:17,18 256:8 276:1 | qualified 167:24,25 |
| presentation 136:15 157:24 | proceedings 285:14 289:7,8,11 | provided 146:10 147:4 178:20 180:12 208:10,17 221:23 230:2 236:11,13 242:10 251:9 253:14 278:1 | qualify 257:22 258:4 |
| pressed 266:4 | process 151:15 209:3 219:19 | | quarterly 159:10 |
| presumably 190:10 195:11,22 | processing 195:2 | | queried 193:5 |
| pretty 251:6 | produce 193:1 | provides 232:1 | question 139:8,10,15 140:10 140:13,16 141:1,17 142:1,9 146:14 147:3,15,17 149:5 150:23 153:1,1 154:1,10 156:12 161:22,25 162:3 163:4 165:12,22,22 170:10 172:20,24 173:11,13 175:22 176:22 178:11,25 179:2,12 180:17 185:14 187:17,22 190:22 206:22 214:12 215:10 |
| previously 137:6 151:3 153:19 160:17 171:1 193:3 228:20 232:6 243:25 257:9 267:21 272:16 278:22 | professionalism 265:25 266:10 | providing 179:4 | |
| pre-lunch 150:20 | proper 202:13 206:19 207:14 | psychologist 166:17 168:13 | |
| primarily 159:13 | properly 140:7 163:2 255:17 265:23 266:8 | pull 228:23 | |
| prior 142:1 157:9 182:17 | proposals 252:22 253:1 | pushing 273:24 | |
| | protocol | put 187:10 224:9,13 | |

| | | | |
|--|--|---|---|
| 216:1,6,10 217:4,5 217:7,19 219:3 220:14,18 221:13 222:3,8,17,21 223:7 223:16 225:14,21 226:6,11,24 227:5 227:21 228:8,11,18 229:16 230:22 231:17 232:4,20 233:10,19 235:12 239:22 241:3 243:7 243:23 244:16 245:3,21 247:8,24 248:14 251:24 253:10,12,23 254:17 256:11 258:12 272:1,5 276:18,24 277:8 282:8 283:8 | 281:9 quoting 234:9 | 165:16 166:6,20 168:17 170:9 175:3 175:24 193:17,21 196:13,23 221:22 224:4,21 238:9 270:25 282:18 | 223:22,24 225:2,7 225:11 244:2 246:9 246:20 248:23 249:2,5,8 269:5,7 269:12,15,17,19 270:2,7,9,9,10,11 270:15 273:22 285:16 289:10 |
| questioned 276:11 | R | realm 168:19 251:16 | recourse 194:22 |
| questioning 181:9 188:23 216:22 280:15 | R | reason 180:20 197:1 218:15 229:21 230:6 232:16 233:12 238:9 276:11 278:12 287:11,17 287:23 288:4,10,16 | rectify 140:23 |
| questions 145:17 150:25 152:15 160:21 164:25 200:8,24 204:10 240:1 246:12,21 273:7,12 281:8 285:2 | reach 135:1 286:1 | reasonable 168:10 194:22 195:2 206:19 221:19 231:6 254:2 267:8 284:7 | refer 141:9 261:23 |
| quickest 245:17 | reacted 171:4 | reasonably 189:22 277:9 | reference 208:8 224:2 253:18 257:18 |
| quickly 223:8,8 | read 139:7,9 148:18 168:2 168:11 169:13 171:15 172:21,23 173:16,17,20 187:11,12 203:6 212:19 213:24 218:15 223:5,7,13 227:22 248:9,9 252:16 256:6 285:3 286:10,11 | reasons 256:4 281:14,16 | referencing 279:19 |
| quite 169:1,5 183:12 210:4 210:5 231:2 | reader 168:16 | recall 166:11,12 176:6 188:9 229:5 | referred 208:20,22 212:12,14 260:11 |
| quotations 182:20 | reading 166:11 169:19,24 170:1,3 217:2,15 220:15 235:1 236:20 248:8 289:18 | receive 159:10,14 196:16,17 | reflects 233:21 |
| quote 187:25 | reads 202:9 | received 145:1 152:2 161:13 216:7,11 | refusing 162:2 |
| quoted 279:15 | real 244:22 | Recess 180:2 186:11 213:3 225:8 249:6 | refutes 219:21 |
| quote/unquote 142:24 160:5 231:10 | realized 179:7 | recollection 228:21 | regard 141:11 158:10 185:25 189:11 191:25 229:11,25 234:8 |
| | really 140:13 142:4 147:15 | recommendations 281:17 | regarding 136:15 137:18 138:20 139:2,11,23 141:5,20 142:14 143:6 144:25 146:17,25 157:24 165:9 183:14 184:17,19 193:6 194:14 197:11 217:21 219:18 242:7,10 247:3 |

| | | | |
|---|--|--|---|
| 248:21 249:11,15 250:4,13 251:21 252:22 253:1,14 258:9,16 262:5 265:2,18 267:15 | relevant 166:20 176:24 177:8 177:9,14,19 178:3 179:6,7 197:6 219:9 255:21 | 243:4,13,21 248:2 248:15 256:4 262:16 274:7,9,24 276:7 279:19,21 280:3 284:6 | 164:25 |
| regardless 166:13 265:19 | relied 263:18 | reported 138:14,21 139:3,13 139:25 140:7,9,21 141:1 142:2,6 143:3 143:4,7 146:2,18 147:1,16,19,19 148:9 149:2 150:23 153:15 156:4,5,20 156:23 161:19 169:7 185:14,17 191:15 194:1 241:9 241:13,24 242:5,7 242:10,21 248:11 255:18 265:13 279:25 | reseating 219:14 234:10 |
| regulation 138:4,23 141:16 146:17,21 151:7 152:9,12 201:6,13 251:20 261:18 262:4 263:2,4 265:5 265:8,13 268:7,24 272:6 284:24 | rely 230:19 232:5 254:8 267:6,13,16 268:2 268:11,19,25 | | reservations 197:17 |
| regulations 138:20 262:9 263:8 268:2,17,19 270:20 271:22,25 272:7 284:19 | relying 141:17 | | resolution 265:24 266:9 |
| reinforce 145:18 | remember 274:21 281:11 | | resource 195:16 197:11 198:16 200:17 232:2 253:7 257:6 257:10 |
| reiterate 272:7 | remiss 201:16 | | resources 191:18 192:17,22,22 200:9 272:20 |
| related 154:5,20 155:5,18 160:14 161:17 162:18 163:4,7 195:18 196:21 | remote 289:10 | | respect 143:16 151:2 152:2 152:21 153:5 160:1 161:18 170:1 187:17 202:24 212:10 231:13 232:14 241:5 249:19,22 250:7 261:6,12 262:12,19 263:13 264:8 266:11,25 274:18 |
| relationship 154:11 155:18 163:14 165:25 166:10 168:12,13 168:25 170:13 172:17 173:9 174:2 174:15 277:25 279:13 284:22 | Remotely 135:3,10 | reporter 134:22 137:6,12 139:7 172:21 223:13 266:2 269:22,24 270:6,8 289:2,4,6 | respond 137:19 138:21 139:2 139:12,24 140:5 141:6 143:6 144:17 144:25 146:18,25 149:2 150:17 151:19 152:22 158:9 244:10,14 253:5,19 267:8 |
| relative 289:16 | repercussions 206:12 | reporting 139:18,21 141:21 149:25 151:15 160:1 277:19 | responded 171:24 255:17 |
| relay 182:19 187:2 | report 137:23 138:6 139:17 140:2,24 142:15,20 142:24 144:25 145:21 151:19 152:2,22 156:10,11 156:14 157:10 159:19 161:13,23 162:8,23 163:11 164:21,22 166:25 168:15 169:9 171:22 175:11 177:21 180:15,18 181:3 182:10,13 183:19 185:6 186:16 187:11 193:8,18,19 201:19 205:3 221:25 230:8 236:12 242:11 | reports 137:19 139:5,16 205:19 | responding 138:6 143:17 153:5 153:15 156:20 172:9 217:12 242:7 249:12,15 251:3 254:2,15,20 265:13 267:15 268:3,12 269:1 |
| relayed 149:16 234:10 239:7 267:4 | | requested 157:7 289:18 | responds |
| release 273:25 | | required 138:20 144:6 155:4,6 158:14 194:8 197:25 201:9,12,25 203:12 205:15 233:7 265:8 271:10 | |
| | | requires 241:9 | |
| | | requiring 261:19 | |
| | | research | |

| | | | |
|--|---|--|---|
| 141:20 142:14 146:2 response 151:7,10 170:15 198:11,13 221:15 222:10 251:22 252:22 253:1 254:25 276:14 responsibilities 156:20 251:16,18 responsibility 151:11 191:18 192:20 200:21 252:8 281:22 283:3 284:1 responsible 152:17 252:4 262:7 responsive 204:9 rest 214:20 248:19 restate 155:10,11 271:17 276:21 resting 188:3 resumé 250:24 returned 182:18 187:1 revealed 163:3,9,12 199:19 review 159:4 176:4 194:22 208:1 228:22 235:21,24 247:5 reviewed 156:2 158:25 163:18 175:14,15 180:11 189:25 244:3 282:4 282:5 ridiculous 221:13 right 149:11 159:3 166:15 171:12 173:16 | 182:2 183:19 184:11 193:7 195:13 199:1,13 201:14 202:22 204:10 209:4,5,7 210:15 214:18 216:1 218:21 220:2 241:25 243:11 247:16 259:5 266:5 269:14,23 274:6 rise 148:3 risk 213:10 215:12 218:25 220:21 256:23 257:1 258:10 road 138:13 150:25 197:2 roads 140:20 role 249:11,14 row 196:1 210:7 219:15 234:10 rubbed 149:8 rubbing 148:5 213:17,25 221:2,3 Ruben 134:22 137:12 289:4 289:25 rules 148:8 263:8 <hr/> S <hr/> s 135:1 136:12 182:24 183:20,25 185:4,5 185:18 187:5,8 218:4,5 237:5 240:21 274:20 277:3 280:1 286:1,1 safe | 277:12 safety 148:2 213:10 214:2 215:12 218:25 220:21 221:5 226:5 231:15 232:11 244:23 252:5 253:5 253:5,19,20 254:3 254:15 256:20,22 256:25 258:3 265:25 266:10,21 267:9,15 268:4,13 269:1 284:2 Sakurada 154:18 155:14 184:8 190:11 201:22 202:11 203:9,17 Sakurada's 205:11 San 135:6 satisfaction 262:8,22 satisfied 155:1 save 183:18 272:6 saw 151:1 153:6 171:3 185:4,4 188:2 203:1 217:9 219:19 224:22 276:9 saying 153:6 154:15 164:15 169:6 171:5 173:11 177:16,18 188:10 189:3 191:1 197:24 204:23 206:2 209:12,23 218:11 229:19 230:16,23 241:16 244:9 245:11 259:12,18 280:17 says 167:17 171:22 173:13 183:19 | 185:6 186:23 190:7 197:23 202:17 203:3 214:14 217:21 218:21 219:18 227:22 241:23 scenario 253:15 254:21 257:4 267:19 School 250:24 scope 144:10 Scott 156:5,11 157:9 176:10,14,17,23 177:13 178:6 180:14 182:16 183:15,24 184:13 184:13,17,18,24 185:20,21,24 186:24 187:6 197:9 screen 158:18,23 223:17 266:5 scroll 216:20 226:21 228:23 se 152:12 search 194:20 seat 176:17 275:1 seated 196:1 second 169:21 171:17 186:16,22,22 191:7 201:20 212:24 224:10,13 225:3 241:7 248:23 249:24 seconds 159:2,2 section |
|--|---|--|---|

| | | | |
|---------------------|---------------------|---------------------|----------------------|
| sections | 232:9 | 182:21 184:3 | 174:23 175:6 177:9 |
| 193:2 | serves | 185:12 187:3,18 | 177:22 179:5,10,15 |
| security | 168:15 | 188:11,18 189:6,16 | 179:19 180:9,13,25 |
| 148:3 205:6 232:11 | service | 242:18 243:5,12 | 181:18 182:11,19 |
| 244:24 252:5 | 210:8 | 244:12 248:11 | 183:1,7,9 185:3,11 |
| 256:18,20,23,25 | set | shaking | 185:15,17 186:3 |
| 263:9,11 284:2 | 147:15 150:5 232:17 | 276:9 | 187:2,7,20 188:10 |
| see | 251:13 275:3 | share | 188:17 189:5,21 |
| 147:18,21 157:7 | 283:12 289:7 | 148:17 200:21 | 190:6,7,16,16 191:1 |
| 158:22,22,24 | sets | 231:12,19 | 191:17 192:10,20 |
| 162:12 178:13 | 275:2 | shared | 194:3 195:17 |
| 182:11,22 208:3 | setting | 164:9 167:19 195:23 | 198:16,18 199:2,11 |
| 214:4 216:16 235:8 | 274:2 | 196:3 197:21 | 201:3,8,21 202:3,10 |
| 235:14 | severe | 209:20 282:2,3,15 | 202:22 203:15 |
| seeing | 148:14 | 282:17 | 204:19 205:10 |
| 244:25 279:25 | sexual | sharing | 237:8 238:2,5 |
| seek | 137:24,24 138:6,21 | 186:17 225:16 | 255:17 257:17 |
| 266:16 | 139:3,6,13,16,24 | shed | 261:3,7,11 262:5,11 |
| seen | 140:3 141:23 142:2 | 163:14 164:11 | 262:17 263:7,12,15 |
| 159:7 180:19 193:20 | 142:4,16 143:7,17 | 167:20 171:6,6 | 264:3,7,10 265:3,22 |
| 195:23 214:5,17 | 144:18 145:1,2,2 | SHEET | 266:7,19 273:14 |
| 220:5 | 146:2,18,19 147:1,1 | 286:14 287:1 | 274:7 276:1 279:10 |
| senior | 147:11,11,13,16,19 | shit | 279:16 280:10 |
| 202:23 | 147:19 148:7,7,13 | 186:18 | 283:21 284:16,21 |
| sent | 148:14 149:2,10,10 | shopping | Shupe's |
| 215:22,23 216:2,3 | 149:25 150:16 | 200:7 | 166:5 172:5 175:16 |
| sentence | 152:23 153:8,15 | short | 198:22 272:24 |
| 186:15,23 190:25 | 156:21,23 161:5,8 | 232:8 256:16 | 280:4 |
| 191:7 204:15,16 | 161:15,19 162:8,9 | shorthand | sign |
| separate | 189:22 191:12,14 | 134:22 289:2,4,13 | 285:3,13 |
| 154:6,13 155:16 | 191:15 194:18,18 | Shortly | signal |
| 167:4 190:9,14 | 206:16 209:12 | 182:15 186:23 | 277:13 |
| 191:20 192:12 | 210:24 211:6,7,20 | show | SIGNATURE |
| 205:24 257:19 | 212:1 237:9,21 | 272:19 274:19 | 288:22 |
| 263:20,23 272:22 | 238:25 239:6,13 | showed | significance |
| 272:24 | 240:7,25 241:8,9,13 | 159:8 | 172:16 173:7 174:2 |
| separated | 241:17,23 242:4,7 | showing | significant |
| 155:7,20 163:19 | 242:11 243:19 | 157:22 181:16 270:4 | 176:19 |
| 191:4 197:9 202:4 | 244:4,5 247:4 248:2 | Shupe | significantly |
| 240:23 267:3 | 249:12 252:19,23 | 136:17 154:4,16,19 | 258:8,15 |
| 280:10 | 255:18 256:24 | 155:13 156:18,22 | signing |
| separating | 265:14 270:23 | 157:6 163:18 | 289:18 |
| 190:18 191:3 | 271:13 272:12 | 164:16 165:14,17 | signs |
| separation | 276:4,5 | 166:25 170:20,20 | 209:6 |
| 155:3 198:3 | sexually | 170:23 171:7,23 | simple |
| serious | 137:19 143:4 181:6 | 172:16 173:7 | 164:13 167:22 |

| | | | |
|----------------------|--------------------|---------------------|---------------------|
| 221:22 | six | 217:13 225:17 | 251:10 271:25 |
| simply | 246:25 270:5 | 226:23 227:10 | 272:8 284:25 |
| 248:1 | skipped | 245:18 249:20 | specificity |
| single | 205:5 227:15 241:5 | 251:19 264:20 | 227:6 |
| 207:23 | sleep | 265:18 270:13 | specifics |
| sir | 180:9 | 274:1 276:22,23 | 183:23 |
| 138:9 139:15 144:21 | sleeping | 282:8 | speculating |
| 145:6 146:5 147:5 | 181:1,10 284:17 | sort | 165:8,23 |
| 147:21 148:8,16 | slow | 155:23 188:5 194:1 | spell |
| 149:5 158:9 161:3 | 265:18 266:1 | 195:8 223:9 | 259:14 260:12 |
| 161:21 169:1,9 | slower | sound | spoke |
| 170:3,17 172:8,19 | 223:14 | 277:6 | 155:15 |
| 174:5 175:15,23 | slowly | South | spoken |
| 177:5,18 180:22 | 226:21 | 135:12 | 155:13 |
| 183:10 184:5,22 | smaller | southerner | square |
| 187:10,23 188:21 | 228:25 | 223:9 | 168:23 169:1,4 |
| 194:15 199:15 | soda | so-called | 170:11,16 |
| 200:16 202:9 203:3 | 276:10 277:2 | 160:17 | standard |
| 206:22 208:6 210:3 | sole | speak | 137:17,18,21,22 |
| 216:20 231:19 | 267:24 | 157:19 171:3 260:20 | 138:4,4,17,18 139:1 |
| 235:15 237:12 | solely | 260:25 264:16 | 139:11,23,23 140:3 |
| 238:8 239:4 241:4 | 267:13,17 268:2,11 | 282:5 283:16 | 140:4 141:4,5,9,19 |
| 241:16 243:25 | 268:19,25 | speaking | 141:20 142:13,14 |
| 249:20 250:2 251:6 | solution | 215:15 | 142:19 143:5,5,9 |
| 252:1 253:23 255:2 | 195:2 | speaks | 144:24,25 146:1,1 |
| 255:20 256:15 | somebody's | 159:12 164:21 | 146:17,24 150:16 |
| 258:13 259:22 | 193:13 | Spear | 151:8,18,18,22,24 |
| 260:12 262:3,16 | son | 135:5 | 151:25 152:5,8,9,20 |
| 263:5 268:18 | 156:19 163:13,20 | specific | 160:1,5 200:13,14 |
| 270:25 272:17 | 164:10,18 165:1,10 | 138:22 141:10 | 201:7,7 251:2,7,8 |
| 273:2 275:6 277:17 | 167:1,20 168:13,20 | 146:16 176:1 | 251:13,17,20 263:3 |
| 278:17 279:19 | 172:13 173:3 174:1 | 183:14 184:17 | 274:23,24 275:1,2 |
| 280:21 | 174:12 175:9,19 | 189:10,19 208:8 | 281:20,23 283:5 |
| situation | 176:8,11,16 196:4 | 218:3 231:19 | standards |
| 146:12 150:18 | 279:17 | 232:10 236:11 | 265:25 266:10 |
| 168:14 200:5 | son's | 240:12 251:1,20 | 282:10,11,20 |
| 218:20 220:6 229:8 | 210:22 | 252:1 253:4,25 | 283:13 |
| 244:10 265:19 | sorry | 265:12,16 272:5 | standpoint |
| 273:3 275:9,11,18 | 146:13 155:10 | specifically | 193:25 |
| 277:1 | 157:14 158:20 | 144:13 172:6,12 | stands |
| situational | 164:17 165:21 | 173:1,21,23 174:10 | 260:13 |
| 262:19 275:10 | 172:3,19 177:25 | 182:13,23 183:5,20 | start |
| situationally | 178:1 182:20 | 184:3 187:4,11,20 | 139:20 145:17 |
| 267:18 | 185:16 187:13,14 | 188:10,14 189:23 | 150:25 156:13 |
| situations | 190:21 192:3,4 | 197:2 200:14 222:6 | 195:15 198:25 |
| 225:24 | 203:6 208:15 217:2 | 229:11 235:9 | started |

| | | | |
|---|--|---|---|
| 218:1 219:14 229:19 234:13 starting 149:20,22 starts 173:11 state 134:22 138:9 182:10 182:11 201:20 239:5 244:1 261:3 274:23 286:21 289:5 stated 138:10 165:23 168:3 183:13 188:2 197:7 227:23 232:24 238:2 283:22 284:6 statement 187:17 statements 170:5,5,6 208:17 274:13 States 134:1 281:25 stating 189:4,15 status 279:23 stay 246:9 staying 270:13,15 step 192:15 199:9 steps 152:6 153:21 162:14 193:4 stick 140:10 142:9,10,11 163:9 229:13 sticking 198:10 stop 162:19 191:9,16 192:6 204:3 220:14 227:24 235:16 | stops 190:8 283:24 story 219:22 strange 164:1 Street 135:5,12 strike 138:18 144:16 146:15 154:15 163:20 218:10 237:3 248:5 259:7 260:2 276:24 stroke 239:10 stroking 154:17 165:24 167:9 167:14 197:23 201:4 202:6 221:9 237:5 238:20 240:16 strong 201:16 stuck 229:6 studied 160:22 stuff 246:16,18 subject 148:22 215:24 255:18 279:5 subjects 246:22 subscribed 289:19 subsequent 156:11 184:14 223:17 subsequently 204:20 substance 143:16 substituted 151:3 | successfully 200:24 succinctly 195:12 suddenly 220:11 sufficient 140:17 273:14,18 274:12 suggest 156:2 252:14 suggesting 190:15 252:15 Suite 135:6,13 summaries 175:25 summarize 244:19 SUPPLIED 136:22 support 198:2 226:22 suppose 183:16 supposed 137:18 139:2,12,24 140:4 141:5 143:6 146:18,25 147:7 149:1 150:17 152:21 244:14 sure 139:4 143:11 153:21 179:22 206:21 212:25 217:3 244:24 245:19 247:17 269:13,24 282:7,18,24 surname 164:10 167:19 195:23 196:4 197:21 198:20 199:13,19 surnames 196:20 197:14 surrounding | 152:4 252:18 surveillance 214:22 suspect 159:24 160:4,9 163:1 175:18 194:4 207:5 209:25 210:17,21 230:5,6 231:10,23 232:15,23 233:6,11 240:15 suspected 141:13 144:18 156:21 159:12,20 160:13 162:13 189:5 191:12,12,14 193:4 194:17 197:3 199:9 205:24 206:16 207:9 208:5 208:18 210:3 211:3 211:14 212:10,15 216:17 218:12 219:5 221:10 222:4 222:15 224:21 226:23 227:3 228:15 230:1 233:16 235:9 237:9 237:21 238:1,5 241:17 251:3,22 252:2,18,19 256:24 265:14 276:3,4 suspecting 238:25 suspects 141:6 206:24 207:3 suspicion 233:1 276:15 277:23 278:6 suspicious 160:1 208:11 230:11 231:1 280:24 sworn 137:6 219:17 235:25 system 260:10 <hr/> T <hr/> |
|---|--|---|---|

| | | | |
|---|--|--|---|
| T 135:12 136:12 234:20 286:1,1 | 177:9 184:13 186:2 200:10 214:5 224:15 229:14 238:4 245:22 258:22 259:22 | 170:2 176:7 178:16 190:7 289:9 | 219:13 229:19,20 282:24 |
| take 142:22 146:12 152:5 161:18 194:6 244:22 254:1 267:10 | telling 169:15 170:3 196:25 | testimonies 169:14 | things 156:8 197:19 200:10 208:9 209:15 216:7 221:22 231:3 235:3 237:25 238:13 262:7,17 264:22 278:24 |
| taken 134:21 149:18 153:22 154:23,25 159:16 172:4 192:18 205:10 248:17 286:10 289:7 | tells 150:14 193:15 202:25 207:5 | testimony 144:7 168:7,24 169:3 169:11,14,20 170:11,13 171:9,15 172:5 173:15,18,19 173:20 175:6,10,11 175:13,15,24 176:3 176:12 182:25 183:4,13,24 184:16 184:23 186:5 187:14 198:17 199:20 201:24 203:11 208:3 209:9 211:18 217:9 218:15 219:10,13 219:20 221:9,14 222:6,25 224:6 226:25 228:5,14 233:14,16,21 234:4 234:8,11,21 235:14 235:21 236:1,20 239:4,11 240:6 241:15 242:19,25 247:5,22 273:22 274:8 277:22 279:13,15 284:6 | think 140:16 155:23 164:21,22 181:22 181:25 187:25 188:4,21 189:22 196:12,25 197:1,20 211:2 218:14 219:8 219:9 224:21,22 227:1,16 229:19 230:9,23 231:6 238:9 250:24 260:16 276:23 277:1 |
| takes 147:14 205:6 251:11 | terminate 239:18,20 240:3 245:3,23,23 246:3 | Thank 222:12 223:12 228:7 246:8 270:17 274:20 284:11 285:1 | thinking 177:5 178:20 179:2,9 179:14 195:1 239:14 |
| talk 145:19,20 192:10 193:22 215:14 223:8,21 237:18 239:20 240:18 278:15,20 | terminating 245:12 246:4 | Thanks 181:15 285:3 | thorough 179:15 |
| talked 163:24 224:15 244:5 264:15 266:17 268:8 | terms 156:19 173:22 205:23 231:19 258:23 260:23 273:23 279:24 281:21 | theme 225:1 | thoroughly 160:20 |
| talking 142:3 172:6,11,25 173:12,18,21,22 184:10 192:6 245:1 250:16,17 259:5 267:19 279:4 | testified 137:7 143:22 154:16 154:21 156:7 157:2 160:17 165:14,18 166:9 171:1 173:24 174:6,14 175:2 177:13 178:7 181:4 187:7 189:12 191:25 196:12 198:6,23 199:4,16 207:24 208:6,16 218:12 222:14,21 227:7 229:24 231:2 235:1 239:4,9 243:2 244:18 251:25 267:21 276:7 278:22 279:10 280:5,22 281:20 | theory 243:8 | thought 145:9 171:17 177:14 185:16 195:10 198:11 237:16 239:8 259:17 |
| Tara's 181:23 182:1 | testify 174:10 222:4,5 | thing 138:23 147:23 156:22 174:13 190:13 192:23 195:21 196:2 | threat 148:2 155:2 201:24 202:15 203:11 205:6,15,21 231:13 232:7,9 253:6,6,13 253:16,17,19 254:1 254:9,10 255:25 256:5,6,7,9,17 257:2,11,14,22,23 |
| tasked 179:14 | testifying 144:1,13 169:18 | | |
| teaches 158:5 | | | |
| technical 289:11 | | | |
| technically 257:3 | | | |
| tell 140:14 142:25 150:10 159:9,17 | | | |

| | | | |
|---|---|--|--|
| 257:25 258:5,5 263:16,19,24 threaten 256:19 threatened 258:3 threatening 266:21 threats 266:22 three 216:9 threw 147:10 throw 260:6 tied 150:9 time 155:24 157:10 159:16 178:9,18,20 178:23 179:9,25 180:4,10 181:1,11 183:18 186:10,12 208:10 213:2,4 225:6,10,24 226:10 244:22 246:24 248:24 249:5,7 256:10 261:10,24 266:4 269:22 270:1 270:3 272:6 273:14 273:18 274:12 279:24 281:7 285:17 289:7 timeline 273:21 times 145:6 152:13 153:2 161:25 208:6 216:9 216:10 227:17 239:9 251:25 261:22 271:25 273:24 timing 273:23 today | 208:7 284:7 today's 285:14 told 153:9,12 154:5 161:16 178:8 181:10 183:7,9 185:21,22 187:7,20 189:20 197:8 201:22 202:6,11,24 203:9,17 227:1,2 228:15 240:14 245:20 260:5 tool 230:25 tools 230:24 231:7,13 top 208:24 209:10 221:24 242:2 topic 245:3,21 247:10,16 247:16,17 268:7 topics 215:19,22 252:18 total 285:15 totally 245:19 259:18 touching 137:24 148:20 155:1 155:16,25 156:3,4 156:10,14,25 163:11 164:12,19 164:23 166:9 167:2 167:22 168:8,17,25 170:12 172:10 178:19 182:14 186:1 193:19,20,22 194:18 198:14 199:3,5 201:23 202:12 203:10,18 203:19 204:24 205:4,20,22 209:16 210:22 211:5,22 212:2 237:13 | 271:19 274:1,2 279:18 traffic 160:25 trafficked 209:14 258:17 277:24 trafficker 196:9 traffickers 158:6 196:8,16 trafficking 141:7,11,14 157:3,4 157:19 158:15 159:12,20 160:2,12 191:12 194:17 196:8,14 197:3 199:9 206:25 207:4 207:6,9,11,21 208:5 208:19,21,23 209:3 209:5,6,6,24,25 210:17,18 211:3,4 211:14,24 212:4,10 212:15 215:4,13,18 216:12,18 217:23 218:8,13,17,20 219:5 221:11,16 222:5,15 223:2 224:4,16,22 226:13 226:17,19 227:3 228:15 229:12,23 230:1,5,6,7,17 231:10,23 232:14 232:16 233:6,7,8,17 234:1,18 235:3,6,10 235:20 236:3,7,16 238:6,15 249:16 251:3,22 252:2,19 253:2 276:4,12 277:4,10 280:15,18 280:19,25 train 158:14 283:6 trained 196:7 200:17 236:4 244:22,23 264:3,10 | 264:21 265:22 266:7,19 278:4 282:18 training 141:10,12 146:10 151:13,14 152:1 159:10,11,21 196:13,16,17 236:11 238:15 249:18,21 250:3,6,8 250:12,15,17,19,22 250:23 251:9 252:7 258:8,15 261:4,12 262:12 263:13 264:8 265:8,17 266:12,24 276:2 278:1,10,12 281:9 281:13,18 282:21 282:22 284:1 transcribed 289:14 transcript 136:16 181:18 217:16 285:5,6 286:10 289:12 transcripts 169:24 transmissions 273:23 transpired 206:15,17 Transportation 281:17 transport-category 265:9 traveled 197:18 treated 189:12 tried 147:12 203:25 204:17 273:23 279:1 true 145:14 166:22 187:6 196:21 286:12 |
|---|---|--|--|

| | | | |
|--|--|---|---|
| truth 168:7 169:15 | 219:18 220:4,7,9,17 225:15,22 226:1 231:4 237:7,14,17 238:22 239:13 240:17 277:20,23 | USC 250:24 | viable 264:24 |
| truthfully 169:18 | | use 147:12 196:8 218:3,3 221:17 254:8 257:3 257:5,10 263:10 265:23 266:8 | Vickie 134:12,20 136:3 137:5 285:15 286:24 288:23 |
| try 191:19 204:11 223:10 231:8 239:19 244:19 246:19 256:15 264:14,16 | uncover 264:12 | useful 230:24 | victim 149:11 150:1 241:10 243:4 244:7 248:3 271:13,19 272:12 277:4,5,9 |
| trying 148:17 170:8 187:9 190:24 204:2 209:4 209:5 215:3 217:23 218:7,16 224:10 241:21 | understand 139:5 144:10 149:4 154:9 174:9 184:11 185:13 190:21 206:21 226:18 227:16 238:18 243:7 245:19 253:9 253:12,22 254:17 276:18 277:8 282:7 | utilize 198:17 232:2 264:4 266:15 | victim's 148:22,25 |
| turbulent 255:9 | understanding 172:8 286:14 | utilized 200:18 272:20 | video 136:15 157:23 158:3 158:23,24 159:1,3,5 159:15 285:5,6,8 |
| two 140:20,20 156:6 159:1,2 161:16 163:3 195:13,25 196:19 198:1,19 199:24 200:6,11 201:10 206:15 210:9 216:9,10 219:9 236:12,15 244:6 255:24 280:10 | understands 271:18 | V | videoconference 134:13,20 137:1 289:6 |
| undertake 192:20 284:3 | undertaken 209:20 | v 286:3 | videographer 135:18 137:9,11 179:24 180:3 186:9 186:12 213:1,4 225:5,9 248:24 249:1,4,7 270:13,16 285:4,8,12 |
| unearth 195:20 | unearthly 206:8 | vacuum 193:12 | view 198:22 226:22 231:12,20 232:6 235:21 |
| unilaterally 206:8 | United 134:1 138:5,10 143:2 143:16 144:1,3,6,11 144:19,24 145:10 145:17,19 158:5,10 249:11,19,22,25 250:1,3,4 252:10 281:9,13,25 | valid 278:6 | viewed 164:19 |
| type 273:15 | unsafe 226:7,10 | variations 283:12 | views 192:11 |
| types 197:18 | untoward 277:25 | various 156:6 | violate 269:4 |
| U | unwanted 137:24 148:20 | vein 223:1 232:7 | violation 268:23 272:25 273:5 273:6 284:18,23 |
| U 286:1 | unwise 267:16 | verb 289:10 | Viterbi 250:24 |
| ultimate 190:9 206:14,16 | uphold 263:8 | verbatim 289:10 | VOLUME 134:10 |
| ultimately 197:8 200:22 263:15 283:22 | | verbiage 183:14 184:17 185:24 189:19 218:3 | vs 134:6 |
| unclear 210:4 | | verified 140:7 142:7 161:23 | |
| uncomfortable 198:15 201:6 210:21 | | verify 202:13 | |
| | | vernacular 147:22 | |
| | | versions 156:6 | |
| | | versus 150:22 161:22 | |
| | | VFR 255:8 | |

| W | | | |
|----------------------|----------------------|---------------------|---------------------|
| Wait | 181:4,10 213:19 | 215:11 227:15 | 191:6 196:12,23 |
| 179:22 | 215:11,12 224:4 | 241:10 243:1 244:5 | 198:5 199:15 |
| waived | 226:9 232:4 242:20 | 251:15 262:16 | 200:16 201:12,15 |
| 275:5 | watching | 264:9 266:13,17 | 202:9 204:9,10,11 |
| walk | 239:10 | 268:8 272:16 | 206:2,21 207:16 |
| 205:2 211:20,25 | way | whatsoever | 209:9 210:2,20 |
| walked | 140:25 142:23 | 233:12 | 211:10,17 216:20 |
| 182:18 187:1 | 148:20 162:5 | WHEREOF | 217:6,18 219:8 |
| walk-bys | 168:16 171:4 | 289:19 | 221:14 222:9 |
| 182:13 205:3 | 174:10 199:5 | white | 223:15,23 224:1,8 |
| wall | 204:18 218:14 | 224:23 | 227:6 228:4,19 |
| 283:4 | 252:15 263:6 | whoa | 229:3,18 230:23 |
| want | 264:12 275:13 | 204:3,3,3 213:18,18 | 231:18 232:5,21 |
| 175:24 186:7 212:16 | 279:5 282:4,20,23 | 213:18 | 233:11,20 234:7,24 |
| 218:3 226:17 | ways | wide | 235:24 236:10,25 |
| 229:15 239:19 | 266:13 | 148:19 | 237:12,24 238:8 |
| 249:2 268:20 | weather | willing | 239:3 240:10 241:4 |
| 269:12,16,18 270:2 | 255:5 | 143:15 206:11 | 243:24 244:17 |
| 278:14 279:11 | Wednesday | wish | 245:13,14 246:2 |
| 285:9 | 134:15 137:1 | 187:23 | 247:9,25 248:15 |
| wanted | weeks | Withdrawn | 251:25 253:9,22 |
| 174:20 229:6 237:18 | 236:12 | 186:20 | 254:5,12 255:2,5,8 |
| 280:16 | weird | witness | 255:11,20 256:15 |
| wants | 164:5 | 136:3 138:9 139:15 | 257:9,25 258:22 |
| 206:9 | went | 140:19 141:9,25 | 259:4,12,14,17 |
| Warren | 167:17 198:25 | 142:18 143:9 | 261:23 262:15 |
| 156:5 176:10,14,17 | weren't | 144:21 145:5,16 | 263:15 264:1,21 |
| 176:23 177:5,14 | 167:7,8 206:8 278:11 | 146:21 147:3 | 265:7,16 268:6,15 |
| 178:6,13,17,17,20 | we'll | 148:16 149:4,20,24 | 269:4,25 270:25 |
| 179:1 180:8,15 | 171:17 219:25 223:5 | 150:20 151:10,24 | 271:8,15,24 272:16 |
| 181:1 182:16 183:1 | 223:20 240:2 | 152:11,25 153:18 | 276:14 277:8 278:8 |
| 183:7,9,15 184:2,10 | 246:15,16,19 | 154:9 155:9,23 | 278:17,22 279:8 |
| 184:17,18,24 | we're | 157:22 158:9 160:4 | 280:12,21 282:7 |
| 185:10,21,25 186:2 | 137:9 142:3 149:22 | 160:16 161:2,8,11 | 283:1,16,21 284:10 |
| 186:24 187:6,19 | 150:20 155:23 | 161:21 162:5,8,21 | 289:8,19 |
| 188:2,9,17 189:20 | 163:9 179:25 180:4 | 164:2 165:13 166:3 | witnessed |
| 190:11 197:9 | 184:10 186:13 | 166:24 167:12 | 142:7 145:2,2 156:3 |
| 240:19 279:23,25 | 193:9 200:17 203:7 | 168:2,10 170:4 | 183:16 193:23 |
| 284:16 | 213:5 215:24 225:6 | 171:14,22 172:19 | witnesses |
| Warren's | 225:10 228:21 | 173:11 174:5,18 | 169:18 227:17 |
| 156:11 157:9 183:24 | 238:9 245:1 246:6 | 175:14,23 176:23 | 250:11 274:13 |
| 185:7,20 188:6 | 249:8 256:7 259:4 | 177:4,7 178:12 | witnessing |
| wasn't | 266:4 267:18 272:3 | 179:1,13 181:16,19 | 144:7 244:21 |
| 167:5,5 176:16 178:7 | 282:18 285:16 | 183:22 184:7,22 | woman |
| | we've | 187:23 188:14,21 | 149:7 151:4 |
| | 151:3 181:13 193:21 | 189:9,19 190:20 | wondering |

| | | | |
|----------------------|----------------------|----------------------|----------------------|
| 198:8 | 149:23 157:11 | 258:20,22 | 146:5,10,15,20 |
| word | 172:8 179:22,23 | 12 | 2:10PM |
| 147:13 161:22 | 183:22 198:10 | 201:19 | 146:25 147:1,5,10,15 |
| 202:18,19 204:18 | 212:7,18,20 213:21 | 121.55 | 2:11PM |
| 205:11 208:23 | 214:19 220:11 | 138:23 | 147:20,25 148:1 |
| 218:6 221:17,18 | 225:4 235:15 | 13 | 2:12PM |
| 239:6 | 247:15 257:9 259:4 | 196:1 261:3 | 148:5,10,15 |
| words | 261:23 263:5 | 137 | 2:13PM |
| 183:6,8 211:17 227:7 | 271:15 274:6 | 136:6 | 148:20,25 149:1 |
| 244:6 | years | 14 | 2:14PM |
| work | 275:1 | 213:12 | 149:5,10 |
| 153:19 | | 15 | 2:15PM |
| worked | Z | 247:1 274:25 | 149:15,20,25 150:1,5 |
| 250:20 | Z | 158 | 2:16PM |
| world | 148:19 | 136:15 | 150:10,15,20 |
| 147:24,25 245:17 | 0 | 181 | 2:17PM |
| 256:18 | 09 | 136:16 | 150:25 151:1,5,10 |
| worried | 270:4 | 2 | 2:18PM |
| 194:4 | 1 | 2 | 151:15,20,25 152:1 |
| worry | 1 | 136:15 157:23 158:1 | 2:19PM |
| 153:10,13 | 257:12 261:5,6 | 158:18 163:22,25 | 152:5,10,15,20 |
| wouldn't | 1:53 | 164:2,7 201:24 | 2:19-cv-01322 |
| 153:12 166:14 171:1 | 134:16 137:10 | 202:16 203:11 | 134:6 |
| 174:12 180:22 | 1:53PM | 205:16,21 255:25 | 2:20PM |
| 181:5 198:24 199:2 | 137:10,15,20 | 256:5 262:5 263:16 | 152:25 153:1,5,10 |
| 204:25 205:13 | 1:54PM | 263:19,24 | 2:21PM |
| 206:7 234:24 250:8 | 137:25 138:1,5 | 2:00PM | 153:15,20,25 |
| 268:23 | 1:55PM | 141:15,20 | 2:22PM |
| write | 138:10,15,20 | 2:01PM | 154:1,5 |
| 148:8,16 | 1:56PM | 141:25 142:1,5,10 | 2:23PM |
| written | 138:25 139:1,5,10,15 | 2:02PM | 154:10,15 |
| 205:10 241:9 244:1 | 1:57PM | 142:15,20,25 | 2:24PM |
| 274:4 | 139:20,25 140:1 | 2:03PM | 154:20,25 155:1 |
| wrong | 1:58PM | 143:1,5,10 | 2:25 |
| 157:20 | 140:5,10,15 | 2:04PM | 159:3 |
| wrote | 1:59PM | 143:15,20,25 144:1 | 2:25PM |
| 188:4 203:24 204:15 | 140:20,25 141:1,5,10 | 2:05PM | 155:5,10 |
| 204:19 205:8 256:7 | 10 | 144:5,10,15 | 2:26PM |
| X | 213:7 218:21 274:18 | 2:06PM | 155:15,20 |
| X | 1100 | 144:20 | 2:27PM |
| 136:1,12 | 135:6 | 2:07PM | 155:25 156:1,5,10 |
| Y | 11305 | 144:25 145:1,5,10,15 | 2:28PM |
| yeah | 289:25 | 2:08PM | 156:15,20 |
| 139:20 140:6 147:10 | 119 | 145:20,25 146:1 | 2:29PM |
| | | 2:09PM | 156:25 157:1,5,10 |
| | | | 2:30PM |

| | | | |
|----------------------|----------------------|----------------------|----------------------|
| 157:15,20 | 168:10,15 | 3:00PM | 183:20,25 184:1,5 |
| 2:31PM | 2:54PM | 172:15,20,25 173:1,5 | 3:36PM |
| 157:25 158:1 | 168:20,25 169:1,5,10 | 173:10 | 184:10,15,20 |
| 2:32PM | 2:55PM | 3:01PM | 3:37PM |
| 158:5,10,15,20 | 169:15,20 | 173:15,20,25 | 185:1,5,10,15 |
| 2:33PM | 2:56PM | 3:02PM | 3:38PM |
| 158:25 159:1 | 169:25 170:1,5,10 | 174:1,5,10,15 | 185:20,25 186:1 |
| 2:34PM | 2:57PM | 3:03PM | 3:39 |
| 159:5,10 | 170:15,20 | 174:20,25 175:1,5 | 186:10 |
| 2:35PM | 2:58PM | 3:04PM | 3:39PM |
| 159:15,20,25 160:1 | 170:25 171:1,5,10,15 | 175:10,15,20 | 186:5,10 |
| 2:36PM | 2:59PM | 3:05PM | 3:45 |
| 160:5,10,15 | 171:20,25 172:1,5,10 | 175:25 176:1,5,10 | 186:12 |
| 2:37PM | 20 | 3:06PM | 3:45PM |
| 160:20 | 135:12 181:14 | 176:15,20 177:1 | 186:15,20,25 187:1,5 |
| 2:38PM | 2009 | 3:07PM | 3:46PM |
| 160:25 161:1,5,10,15 | 144:8 250:18 | 177:5,10,15,20 | 187:10,15,20 |
| 2:39PM | 201 | 3:08PM | 3:47PM |
| 161:20,25 162:1,5 | 135:5 | 177:25 178:1,5,10,15 | 187:25 188:1,5,10 |
| 2:40PM | 2019 | 3:09PM | 3:48PM |
| 162:10,15,20 | 261:8 | 178:20,25 179:1,5 | 188:15,20 189:1,5 |
| 2:41PM | 2023 | 3:10PM | 3:49PM |
| 162:25 163:1,5,10,15 | 134:15 137:1 286:18 | 179:10,15 | 189:10,15,20 |
| 2:42PM | 289:22 | 3:11 | 3:50PM |
| 163:20 | 2067 | 179:25 | 189:25 190:1,5 |
| 2:44PM | 261:5,8 262:6 | 3:11PM | 3:51PM |
| 163:25 164:1,5 | 21st | 179:20,25 180:1 | 190:10,15,20 |
| 2:45PM | 289:22 | 3:26 | 3:52PM |
| 164:10,15 | 25 | 180:4 | 190:25 191:1,5,10 |
| 2:46PM | 159:1 | 3:26PM | 3:53PM |
| 164:20,25 165:1,5 | 2500 | 180:5,10,15,20 | 191:15,20,25 192:1 |
| 2:47PM | 135:13 | 3:27PM | 3:54PM |
| 165:10,15,20 | 273 | 180:25 181:1,5,10 | 192:5,10,15,20 |
| 2:48PM | 136:7 | 3:29PM | 3:55PM |
| 165:25 166:1,5,10 | 28 | 181:15 | 192:25 193:1,5,10 |
| 2:49PM | 261:8 | 3:30PM | 3:56PM |
| 166:15,20,25 167:1 | 284 | 181:20 | 193:15,20,25 194:1 |
| 2:50 | 136:8 | 3:31PM | 3:57PM |
| 159:4 | | 181:25 182:1,5 | 194:5,10 |
| 2:50PM | 3 | 3:32PM | 3:58PM |
| 167:5,10 | 136:16 137:11 | 182:10,15 | 194:15,20,25 195:1 |
| 2:51PM | 179:25 181:17,20 | 3:33PM | 3:59PM |
| 167:15,20 | 182:10 186:16,22 | 182:20,25 183:1,5 | 195:5,10,15 |
| 2:52PM | 190:5 248:21 263:7 | 3:34PM | 312.345.0700 |
| 167:25 168:1,5 | 263:13 | 183:10,15 | 135:14 |
| 2:53PM | | 3:35PM | |

| 4 | | | |
|--|--|--|---|
| 4 180:4 225:6 257:12 264:3,8 4:00PM 195:20,25 196:1,5 4:01PM 196:10,15,20 4:02PM 196:25 197:1,5,10,15 4:03PM 197:20,25 198:1 4:04PM 198:5,10,15 4:05PM 198:20,25 199:1,5 4:06PM 199:10,15,20,25 4:07PM 200:1,5,10,15 4:08PM 200:20,25 201:1,5 4:09 269:24 4:09PM 201:10,15 4:11PM 201:20,25 202:1 4:12PM 202:5,10,15 4:13PM 202:20,25 203:1,5 4:14PM 203:10,15,20 4:15PM 203:25 204:1,5,10,15 4:16PM 204:20,25 205:1,5 4:17PM 205:10,15,20 4:18PM 205:25 206:1,5,10 4:19PM 206:15,20 4:20PM | 206:25 207:1,5,10 4:21PM 207:15,20,25 208:1,5 4:22PM 208:10,15,20 4:23PM 208:25 209:1,5,10 4:24PM 209:15,20,25 210:1,5 4:25PM 210:10,15,20,25 211:1,5 4:26PM 211:10,15,20 4:27PM 211:25 212:1,5,10,15 212:20 4:28 213:2 4:28PM 212:25 213:1 4:31 213:4 4:31PM 213:5,10 4:32PM 213:15,20,25 214:1,5 4:33PM 214:10,15,20,25 215:1,5,10 4:34PM 215:15,20,25 216:1,5 216:10 4:35PM 216:15,20 217:1,5,10 4:36PM 217:15,20,25 218:1,5 4:37PM 218:10,15,20 4:38PM 218:25 219:1,5,10 4:39PM 219:15,20,25 220:1,5 220:10 4:40PM 220:15,20,25 221:1,5 | 4:41PM 221:10,15,20 4:42PM 221:25 222:1,5,10 4:43PM 222:15,20,25 223:1,5 4:44PM 223:10,15,20,25 224:1,5 4:45PM 224:10,15,20,25 4:46 225:6 4:46PM 225:1,5 4:54 225:10 4:54PM 225:10,15,20,25 226:1,5 4:55PM 226:10,15,20 4:56PM 226:25 227:1,5,10,15 4:57PM 227:20,25 228:1,5,10 228:15 4:58PM 228:20,25 229:1,5 4:59PM 229:10,15,20 42 270:5 434.531.9569 135:7 45 274:5 <hr/> 5 220:1 225:10 265:22 266:7 5:00PM 229:25 230:1,5,10 5:01PM 230:15,20,25 231:1 | 5:02PM 231:5,10,15,20 5:03PM 231:25 232:1,5 5:04PM 232:10,15,20 5:05PM 232:25 233:1,5,10,15 5:06PM 233:20,25 234:1,5 5:07PM 234:10,15,20,25 235:1 5:08PM 235:5,10,15,20 5:09PM 235:25 236:1,5,10 5:10PM 236:15,20,25 237:1 5:11PM 237:5,10 5:12PM 237:15,20,25 238:1,5 5:13PM 238:10,15,20 5:14PM 238:25 239:1,5,10 5:15PM 239:15,20,25 240:1,5 240:10 5:16PM 240:15,20,25 241:1 5:17PM 241:5,10,15 5:18PM 241:20,25 242:1 5:19PM 242:5,10,15 5:20PM 242:20,25 243:1 5:21PM 243:5,10,15 5:22PM 243:20,25 244:1,5 5:23PM 244:10,15,20 |

| | | | |
|---|---|---|--|
| 5:24PM 244:25 245:1,5,10 | 5:49PM 257:15,20 | 267:5,10,15 | 6:34PM 281:20,25 282:1,5 |
| 5:25PM 245:15,20,25 246:1,5 246:10 | 5:50PM 257:25 258:1 | 6:07PM 267:20,25 268:1 | 6:35PM 282:10,15,20,25 |
| 5:26PM 246:15,20,25 247:1,5 | 5:51PM 258:5 | 6:08PM 268:5,10,15,20 | 6:36PM 283:1,5,10,15 |
| 5:27PM 247:10,15,20,25 248:1,5 | 5:52PM 258:10,15,20,25 259:1,5 | 6:09PM 268:25 269:1,5,10,15 269:20 | 6:37PM 283:20,25 284:1,5 |
| 5:28PM 248:10,15 | 5:53PM 259:10,15,20,25 260:1,5 | 6:10PM 269:25 270:1,5,10,15 | 6:38PM 284:10,15,20,25 |
| 5:29PM 248:20,25 249:1,5 | 5:54PM 260:10,15 | 6:16PM 270:20,25 271:1 | 6:39 134:16 285:17,18 |
| 5:30 249:5 | 5:55PM 260:20,25 261:1 | 6:17PM 271:5,10,15 | 6:39PM 285:1,5,10,15 |
| 5:35 249:7 | 5:56PM 261:5 | 6:18PM 271:20,25 272:1,5 | 60 213:7 218:21 220:1 222:19 |
| 5:35PM 249:10,15,20 | 5:57PM 261:10,15,20 | 6:19PM 272:10,15 | 60603 135:13 |
| 5:36PM 249:25 250:1,5,10 | 5:58PM 262:1,5,10,15 | 6:20PM 272:20,25 273:1,5,10 | 61 212:22 216:21 222:10,19 228:20 |
| 5:37PM 250:15,20 | 5:59PM 262:20 263:1,5 | 6:21PM 273:15,20,25 274:1 | 62 228:20 229:7 |
| 5:38PM 250:25 251:1,5,10,15 | 50 159:2 | 6:22PM 274:5,10,15,20 | 65 225:13,20 226:20 |
| 5:39PM 251:20,25 252:1,5 | 52 181:19 182:4 | 6:23PM 274:25 275:1,5,10 | 66 226:20 228:21 |
| 5:40PM 252:10,15 | <hr/> 6 <hr/> | 6:24PM 275:15,20,25 276:1 | 67 226:20 |
| 5:41PM 252:20,25 253:1 | 6 222:10 261:5 266:19 266:25 | 6:25PM 276:5,10,15 | 68 226:20 |
| 5:42PM 253:5,10,15 | 6:00PM 263:10,15,20 | 6:26PM 276:20,25 277:1,5 | <hr/> 7 <hr/> |
| 5:43PM 253:20,25 254:1,5,10 | 6:01PM 263:25 264:1,5,10 | 6:27PM 277:10,15,20 | 7 261:3 |
| 5:44PM 254:15,20 | 6:02PM 264:15,20 265:1 | 6:28PM 277:25 278:1,5,10 | <hr/> 8 <hr/> |
| 5:45PM 254:25 255:1,5,10,15 | 6:03PM 265:5,10,15 | 6:29PM 278:15,20,25 279:1,5 | 8 134:15 137:1 |
| 5:46PM 255:20,25 256:1 | 6:04PM 265:20,25 266:1,5,10 | 6:30PM 279:10,15,20 | <hr/> 9 <hr/> |
| 5:47PM 256:5,10,15,20 | 6:05PM 266:15,20,25 267:1 | 6:31PM 279:25 280:1,5 | 9 222:10 |
| 5:48PM 256:25 257:1,5,10 | 6:06PM | 6:32PM 280:10,15,20 | 911 256:18 |
| | | 6:33PM 280:25 281:1,5,10,15 | |

94105
135:6
941574
286:4 287:2



March 24, 2023

John D. McKay Esq.
Park Avenue Law, L.L.C.
127 West Fairbanks Avenue, #519
Winter Park, FL 32789

Re: Peter Delvecchia v. Frontier Airlines Inc., et al

Date: 3/8/2023

Deponent: Captain Vickie Norton (2)

Job #: 941574

Dear John McKay,

The witness did not waive the right to read and sign his/her deposition in the above referenced matter. Enclosed is the copy of the deposition, together with an errata sheet and additional signature page. Please instruct the deponent to read the transcript, list any corrections (including page and line number) on the errata sheet, sign and date the errata sheet, and also sign the signature page.

You will have 30 days from receipt of this letter to complete the enclosed documents. Once completed, please return the completed errata documents to:

Customer Service Department
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1635 Market Street, 8th Floor
Philadelphia, PA 19103

Should you have any questions, please do not hesitate to contact Customer Service at CustomerService@MagnaLS.com or 866-624-6221.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian T. Maye". The signature is fluid and cursive, with a large initial "B" and "M".

Magna Customer Service Department

cc: Brian T. Maye, Esquire



1 Vol 1 thru errata sheet line 18

2 ERRATA
Vol 2 thru line 23

3

| 4 | PAGE | LINE | CHANGE FROM | CHANGE TO | REASON |
|----|--------------------|-------|---|--------------------------------|----------|
| 5 | 8 | 22 | "piloting command" | "pilot-in-command" | accuracy |
| 6 | 31 | 22 | "sic" | "says" | accuracy |
| 7 | 34 | 22 | "NCSV" | "NTSB" | accuracy |
| 8 | 35 | 1 | "Part 112" | "Part 121" | accuracy |
| 9 | 41 | 2 | "pause (sic)" | "posit it as" | accuracy |
| 10 | 47 | 21 | remove "of" and insert comma after "departure" | | accuracy |
| 11 | 59 | 11 | insert period vs. comma after "protocol." | | accuracy |
| 12 | 59 | 23 | "attendant" | "attendants" | accuracy |
| 13 | 71 | 16 | remove "for" | | accuracy |
| 14 | 71 | 18 | "attendant" | "attendants" | accuracy |
| 15 | 87 | 23 | remove comma after "about" | | accuracy |
| 16 | 87 | 25 | replace ; w/ period after "uncomfortable" and capitalize "Does" | | accuracy |
| 17 | 88 | 1 | replace period with question mark after "touching" | | accuracy |
| 18 | 123 | 10 | "road" | "row" | accuracy |
| 19 | NOTE: Begin Vol 2: | | | | |
| 20 | 5 | 14 | "actual" | "assessing" | accuracy |
| 21 | 23 | 22-23 | "...Capt Shupe was reported..." | "...reported to Capt Shupe..." | accuracy |
| 22 | 126 | 18 | "CAS" | "CASS" | accuracy |
| 23 | 134 | 19 | replace . after "back" and "about" with ? | | accuracy |
| 24 | | | | | |

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1 ACKNOWLEDGMENT OF DEPONENT

2

I, Vickie R. Norton, do
3 hereby certify that I have read the
foregoing pages, 1 - PGS, and that the
4 same is a correct transcription of the
answers given by me to the questions
5 therein propounded, except for the
corrections or changes in form or
6 substance, if any, noted in the attached
Errata Sheet.

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|--------------------|-----------|
| 8 Vickie R. Norton | 3/31/2023 |
| WITNESS NAME | DATE |

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